

## FINAL AGENDA

### A M E N D E D

REGULAR COUNCIL MEETING  
TUESDAY  
DECEMBER 2, 2014

COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
~~4:00-5:00~~ P.M. AND 6:00 P.M.

#### ~~4:00-5:00~~ P.M. MEETING

*Individual Items on the 4:00 p.m. meeting agenda may be postponed to the 6:00 p.m. meeting.*

1. **CALL TO ORDER**

**NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION**

*Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).*

2. **ROLL CALL**

*NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.*

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER PUTZOVA

3. **PLEDGE OF ALLEGIANCE AND MISSION STATEMENT**

**MISSION STATEMENT**

*The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.*

4. **APPROVAL OF MINUTES FROM PREVIOUS MEETINGS**

**See 6:00 p.m. portion of the meeting**

5. **PUBLIC PARTICIPATION**

*Public Participation enables the public to address the Council about an item that is not on the agenda (or is listed under Possible Future Agenda Items). Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including*

*comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.*

**See 6:00 p.m. portion of the meeting**

**6. PROCLAMATIONS AND RECOGNITIONS**

None

**7. APPOINTMENTS**

*Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).*

None

**8. LIQUOR LICENSE PUBLIC HEARINGS**

**See 6:00 p.m. portion of the meeting**

**9. CONSENT ITEMS**

*All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.*

None

**10. SPECIAL ACTION**

**A. Swearing In of New Mayor and Councilmembers**

**B. Selection of Vice Mayor**

**RECESS**

**6:00 P.M. MEETING**

**RECONVENE**

**NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION**

*Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3 ).*



**11. ROLL CALL**

*NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.*

MAYOR NABOURS

COUNCILMEMBER EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER PUTZOVA

**12. PUBLIC PARTICIPATION****13. CARRY OVER ITEMS FROM THE 4:00 P.M. AGENDA****A. Approval of Minutes**

- i. **Consideration and Approval of Minutes:** City Council Combined Work Session/Special Meeting of October 28, 2014.

**RECOMMENDED ACTION:**

Amend/approve the minutes of the City Council Combined Work Session/Special Meeting of October 28, 2014.

**B. Liquor Licenses**

- i. **Consideration and Action on Liquor License Application:** Lauren Merrett, "Field House Chicken and Waffles", 2500 S. Woodlands Village Blvd. #28, Series 12 (restaurant), New License.

**RECOMMENDED ACTION:**

Hold the Public Hearing

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with no recommendation; or
- 3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

**14. PUBLIC HEARING ITEMS**

None

**15. REGULAR AGENDA**

- A. **Consideration of Construction Contract Change Order #1:** Flagstaff Urban Trail System (FUTS) Signage Project (***Approve Change Order #1 to FUTS Signage Project contract***)

**RECOMMENDED ACTION:**

Approve Change Order No. 1 with Conco Concrete Specialist LLC in the amount of \$80,000 and extend the contract by 60 calendar days.

- B. **Consideration and Approval of Contract:** P3 Pre-development Agreement between the City of Flagstaff, Arizona Department of Transportation and Vintage Partners, LLC. (Initial Agreement for the extension of Beulah Blvd., realignment of University Ave., and relocation of ADOT facilities).

**RECOMMENDED ACTION:**

Staff recommends City Council authorize the City Manager to sign the P3 Pre-development Agreement.

- C. **Consideration and Adoption of Ordinance No. 2014-30:** An ordinance of the City Council of the City of Flagstaff, Arizona, extending and increasing the corporate limits of the City of Flagstaff, Coconino County, State of Arizona, pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing certain land totaling approximately 3.14 acres located at 2701 S. Woody Mountain Road, which land is contiguous to the existing corporate limits of the City of Flagstaff and establishing city zoning for said land as RR, Rural Residential. ***(Annexation of property for Aspen Heights located on Woody Mountain Road) (PUBLIC COMMENT HAS CONCLUDED)***

**RECOMMENDED ACTION:**

- 1) Read Ordinance No. 2014-30 by title for the final time
- 2) City Clerk reads Ordinance No. 2014-30 by title only for the final time (if approved above)
- 3) Adopt Ordinance No. 2014-30

- D. ~~**Consideration and Adoption of Resolution No. 2014-36:** A resolution authorizing the execution of a Development Agreement between City of Flagstaff and York Breckenridge GP, LLC related to the development of approximately 36.94 acres of real property generally located at 2701 S. Woody Mountain Road, Flagstaff, Arizona. ***(APPLICATION WITHDRAWN)***~~

- E. ~~**Public Hearing, Consideration and Adoption of Ordinance No. 2014-31:** An Ordinance amending the Flagstaff Zoning Map designation of approximately 36.94 acres of real property generally located at the intersection of Route 66 and Woody Mountain Road, from Rural Residential ("RR") to Highway Commercial ("HC") for 3.6 acres, and to Medium-Density Residential ("MR") for 33.33 acres. ***(Rezoning of property for Aspen Heights located on Woody Mountain Road) (APPLICATION WITHDRAWN)***~~

- F. **Consideration and Adoption of Resolution No. 2014-42:** A resolution of the City of Flagstaff, Arizona approving a pre-annexation agreement between the City of Flagstaff and the Gosch Family Living Trust.

**RECOMMENDED ACTION:**

- 1) Read Resolution No. 2014-42 by title only
- 2) City Clerk reads Resolution No. 2014-42 by title only (if approved above)
- 3) Adopt Resolution No. 2014-42

- G. **Consideration and Approval of Cooperative Contract:** Purchase of a Type I Pierce Quantum Pumper Fire Truck, for City of Flagstaff Fire Department through a City of Mesa cooperative purchase contract, #2013-118 ***(Approve contract for purchase of fire truck for a total amount not to exceed \$460,283.00, plus applicable sales tax).***

**RECOMMENDED ACTION:**

Approve the purchase of Type I Pierce Quantum Pumper Fire Truck from Hughes Fire Equipment, Inc. a Pierce Sales Distributor using a City of Mesa's cooperative purchase contract for a total not to exceed \$460,283.00 plus applicable sales tax.

- H. **Consideration and Approval of Cooperative Contract:** Consider an amendment to extend an IGA with the Lockett Ranches Fire District for Fire/Medical/Rescue Services ***(Amend IGA with Lockett Ranches Fire District to extend the term).***

**RECOMMENDED ACTION:**

Approve an IGA amendment extending the term of the IGA between the Lockett Ranches Fire District and the City of Flagstaff.

- I. **Consideration and Approval of Intergovernmental Agreement:** Council will consider authorizing the City of Flagstaff to enter into an IGA to fund a Regional Training Coordinator (RTC) for fire department training ***(Approve IGA for Fire Department Regional Training Coordinator)***.

**RECOMMENDED ACTION:**

Staff recommends that Council approve the IGA and authorize the Mayor to execute the IGA.

16. **DISCUSSION ITEMS**

- A. **Update on 4FRI**

17. **POSSIBLE FUTURE AGENDA ITEMS**

*Verbal comments from the public on any item under this section must be given during Public Participation near the beginning of the meeting. Written comments may be submitted to the City Clerk. After discussion and upon agreement of three members of the Council, an item will be moved to a regularly-scheduled Council meeting.*

None

18. **INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS**

19. **ADJOURNMENT**

**CERTIFICATE OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Elizabeth A. Burke, MMC, City Clerk

**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Elizabeth A. Burke, City Clerk  
**Date:** 11/25/2014  
**Meeting Date:** 12/02/2014



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**TITLE**

**Consideration and Approval of Minutes:** City Council Combined Work Session/Special Meeting of October 28, 2014.

**RECOMMENDED ACTION:**

Amend/approve the minutes of the City Council Combined Work Session/Special Meeting of October 28, 2014.

**INFORMATION**

Attached are copies of the minutes of the City Council Combined Work Session/Special Meeting of October 28, 2014.

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**Attachments:** 10.28.2014.CCWSSM.Minutes

WORK SESSION/SPECIAL MEETING  
TUESDAY, OCTOBER 28, 2014  
COUNCIL CHAMBERS  
211 WEST ASPEN AVENUE  
6:00 P.M.

## MINUTES

### 1. Call to Order

Mayor Nabours called the Combined Work Session/Special Meeting of October 28, 2014, to order at 6:08 p.m.

### 2. Pledge of Allegiance

The City Council and audience recited the Pledge of Allegiance.

### 3. Roll Call

*NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.*

#### **Councilmembers Present:**

MAYOR NABOURS  
VICE MAYOR EVANS  
COUNCILMEMBER BAROTZ  
COUNCILMEMBER BREWSTER  
COUNCILMEMBER ORAVITS  
COUNCILMEMBER OVERTON  
COUNCILMEMBER WOODSON

#### **Councilmembers Absent:**

Others Present: City Manager Kevin Burke; City Attorney Michelle D'Andrea

### 4. Preliminary Review of Draft Agenda for the November 3, 2014, City Council Meeting.\*

*\* Public comment on draft agenda items may be taken under "Review of Draft Agenda Items" later in the meeting, at the discretion of the Mayor. Citizens wishing to speak on agenda items not specifically called out by the City Council for discussion under the second Review section may submit a speaker card for their items of interest to the recording clerk.*

Mr. Burke stated that item 15A will be removed because the public hearing for Aspen Heights was continued. The Development Agreement will be discussed at the second read of the Ordinance.

Councilmember Barotz suggested postponing item 15D to the November 18, 2014 meeting because she will not be present at the next Council meeting for discussion. Mr. Burke noted that

Roger Eastman will not be at the meeting on the 18th so if there are any proposed changes those should be forwarded to him immediately to get them incorporated before he leaves on vacation. Councilmember Oravits offered concern about delaying the action further, he would rather have the discussion and action as originally scheduled. A majority of Council agreed that the item could be moved to the agenda of November 18, 2014.

Mr. Burke also noted that item 15E will be moved to the 4:00 p.m. meeting since it has been vetted out and discussed on several occasions.

## **5. Public Participation**

*Public Participation enables the public to address the council about items that are not on the prepared agenda. Public Participation appears on the agenda twice, at the beginning and at the end of the work session. You may speak at one or the other, but not both. Anyone wishing to comment at the meeting is asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, your name will be called. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone to have an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.*

Amy Prairie-Litman, resident, addressed Council requesting a bike crossing across the tracks at Old Town Springs.

Andy Fernandez, resident, addressed Council with various complaints and concerns.

## **6. Review and Discussion of City Manager Advisory Committee on City Charter Changes**

Mr. Burke provided a PowerPoint presentation that covered the following:

- CITY CHARTER CHANGES
- THE COMMITTEE
- SCOPE OF WORK
- RECOGNITION

Mr. Burke and Mayor Nabours recognized the committee members and presented them each with a Certificate of Appreciation for their service.

Councilmember Overton noted that even if the City Council approves the changes they all will have to go before the voters for approval. Mr. Burke stated that the Council decides what goes on the ballot to the voters and the voters decide what to accept into the Charter. Any change to the Charter requires voter approval and items must be voted on individually; this could make for a long ballot. One of the recommendations is to limit the ballot to no more than 20 items and it would be up to the Council to determine what the items should be.

Mr. Burke reviewed the committee's recommendations noting their specific information can be found in the attached handout.

1. Councilmember Oravits asked if Flagstaff is unusual with a two year term for Mayor. Deputy City Manager Jerene Watson explained that of the 14 largest cities in Arizona, Flagstaff is the only one without a four year term Mayor. Across the state however, about half of the cities and towns have a two year term.

5. Councilmember Barotz asked if a \$100,000 approval limit is common among other cities. Ms. Watson stated that there is a general movement in the state to go to the \$100,000 limit. More specific information can be researched and provided to the Council at a later time. Councilmember Woodson stated that the cost of conducting an Request for Proposals is costing more money in staff time and increasing the limit would help reduce and avoid these costs.

12, 13, and 16. Mayor Nabours asked if these three items could be consolidated; he feels that the term of the Mayor and Councilmembers could begin on a date certain rather than set by ordinance. Mr. Burke stated that there is greater flexibility in setting the date by ordinance but it can be established with a date certain.

Councilmember Overton asked if there was a way to rescind the Charter in its entirety and submit a new one to the voters. Ms. D'Andrea stated that it sounds possible but she would need to do some research and follow up with the Council at a later time.

Councilmember Oravits asked for the potential election dates. Mr. Burke stated that the earliest election date would be in May with Council calling the election in January.

Vice Mayor Evans asked for a side by side comparison of the "No Action 11" item regarding the Sale of City Property and the current RFP process.

Mayor Nabours stated that he likes the idea of trying to take the recommendations in chunks over a certain number of elections and letting the voters have a say on all issues. Mr. Burke asked that Council rank the items in priority order to allow staff to know the order in which to start filling the ballots.

Mr. Burke then reviewed the list of items that did not make the initial top 20 from the committee.

A break was held from 7:30 p.m. through 7:43 p.m.

Adam Shimoni, resident, addressed Council urging them to get citizen input on the proposed changes prior to putting them on the ballot.

Moran Henn, resident, encouraged the Council to engage the public to get input on this issue.

Councilmember Woodson asked what the education process would be moving forward. Mr. Burke stated that if it goes to the ballot there will be outreach similar to the road initiative and the Regional Plan. Between now and then staff can inject these changes into conversations with outreach groups and getting the news out so the public can come out and start looking at the proposal.

Vice Mayor Evans stated that she was not interested in rushing the changes to the May ballot. Some of the changes are core and fundamental items that need further vetting and more discussion.

**7. Introduction of Draft Relocation Ordinance which would require a Relocation Impact Report and Relocation Assistance Benefits to residents displaced by a request to amend the zoning map ~~(rezoning)~~ (Relocation Policy)\***

Planning Director Dan Folke provided a PowerPoint presentation that covered the following:

- RELOCATION OF DISPLACED RESIDENTS WORK SESSION
- GOALS OF THE WORK SESSION
- WHO IS IMPACTED BY NON-GOVERNMENTAL CAUSED RELOCATION?
- PARAMETERS
- STATE LEGISLATION SUMMARY
- REGIONAL PLAN 2030
- RECAP OF OPTIONS
- CITY COUNCIL DISCUSSION
- LESSONS LEARNED
- PROPOSED TEXT AMENDMENT
- PUBLIC PARTICIPATION
- REVISED SCHEDULE
- QUESTIONS AND PUBLIC COMMENT

Councilmember Brewster asked how comparable housing is determined and what happens if none can be found in the community. Mr. Folke stated that there is a definition of comparable housing that includes federal language about decent, safe, sanitary, access to employment and community services and the financial means of the resident. If comparable housing cannot be found the Uniform Relocation Act provides a rent differential. Councilmember Oravits stated that the definition is very subjective with no metric set on what comparable housing and rent is. Mr. Folke stated that the process will be very difficult and it will be handled case by case. The applicant would have to explain why they feel that what they are offering is comparable.

Mayor Nabours asked for the definition of a Relocation Specialist. Mr. Folke stated that it is a single point of contact for residents to go to for information and questions. They are attempting to have a consistent point of contact for those who might be affected by the proposed changes.

Councilmember Overton asked if it would suffice should the developer go through the rezone process and complete the Relocation Impact Report that mirrors state law. Mr. Folke stated that it is a difficult point to determine what is sufficient and comparable. The City will not require anything over and above the minimum. Councilmember Overton noted that if the developer goes above and beyond the minimum that is great but not required; he wants to be sure that there is no false sense of entitlement.

Vice Mayor Evans stated that she feels that there is more work that needs to be done. One of the things this ordinance will do is provide clarity. The last rezone issue had challenges with inconsistent information which caused more fear with the process. One of the major things that needs to be addressed is notification. If people are purchasing trailers that cannot be moved, they have a right to know that the park may not be there in six months.

The following individuals addressed Council in favor of the relocation ordinance:

- Adam Shimoni



- Roxanna Denise
- Gabriella Vasquez

The following comments were received:

- Need to work hard on getting this ordinance in place sooner rather than later but take the time to make sure that it is done right.
- I like the idea of a designated point person.
- This is a bandaid to a bigger issue.
- Thank you for arranging translation services. A requirement for language services should be included in the ordinance.
- Support approval of a planning and zoning law concerning rezoning.

The following addressed Council in opposition of the relocation ordinance:

- Susan Brenton
- Jackie Keller
- Guy Ecklund

The following comments were received:

- Concerned that the City is moving too quickly to establish an ordinance. Additional time is needed to allow consideration by mobile park owners.
- There are already relocation requirements in place at the state level.
- Multi-family homes should not be included in the ordinance.

Councilmember Oravits stated that multi-family units should be de-coupled from mobile homes as they are two very different things. Mayor Nabours, Vice Mayor Evans, and Councilmember Brewster agreed.

Vice Mayor Evans stated that she would like to see more outreach done; discussions need to take place with mobile home park owners, owners of trailers and residents of mobile home parks and those who have to deal with the clean up of parks that have been closed. Additionally, the community has a right to weigh in on changes of use being proposed in their community. She suggested putting together a diverse group of people to go through the issue and ordinance to see what ideas they may have. Mayor Nabours suggested including Ms. Brenton and her organization in the group as they have a lot of experience in these types of instances.

8. ~~Staff is seeking comment and direction regarding potential terms and/or prescriptions of the Council for a Request For Information (RFI) process.~~ Seeking direction regarding parameters for a Request for Information which could generate master lease opportunities for small cell antennas and other wireless communication equipment in the right of way.\*

Assistant to the City Manager for Real Estate David McIntire provided a PowerPoint presentation that covered the following:

- REQUEST FOR INFORMATION
- EXAMPLES
- PROVIDERS
- SOME OPTIONS
- NEXT STEPS

Mayor Nabours expressed concern with the term lease and suggested using the word license

to avoid any confusion during the request for bids process. Mr. McIntire explained that staff has looked at how other communities have structured this arrangement and typically there is a master lease agreement with the community and supplemental agreements with each affixture.

Mayor Nabours asked if the vendor's intent is to control the entire light pole. Mr. McIntire explained that in some situations the vendor has replaced the light pole; the lease agreement allows them a certain portion of the light pole for their technology but not complete control; however, they would replace the pole should the specs not be up to par. Mayor Nabours cautioned staff to be mindful not to preclude the city's access to the pole in order to work on them.

Mayor Nabours asked about attaching antennas to a building. Mr. McIntire explained that utilizing a building is one of the potential options it is up to Council on whether or not to allow that or stay within the right of way as with other utilities.

Councilmember Overton asked what the benefit is to the community. Mr. McIntire explained that the initial idea focused on revenue generation. Any enhancement of communication technologies would be a secondary benefit to the community.

Vice Mayor Evans stated that the appearance and design of any attached technology should be taken into consideration. Mr. McIntire stated that it is unknown the different technologies that could come forward and staff will look at them on a case by case basis

Councilmember Brewster asked if there is a difference in revenue generation for right of way versus structure mounted. Mr. McIntire indicated that there could potentially be some variation in revenue based on location, staff would have to look at the device and its impact. Without knowing what the technologies are it is tough to know for sure.

The City Council agreed that they would like to take a further look at the request for proposals.

**9. Review of Draft Agenda Items for the November 3, 2014, City Council Meeting.\***

*\* Public comment on draft agenda items will be taken at this time, at the discretion of the Mayor.*

Councilmember Barotz requested information on the public safety issue regarding student housing such as the Grove and Aspen Heights.

Councilmember Overton requested additional information on Aspen Height's commitment on the lighting arrangements and traffic implications.

**10. Public Participation**

None.

**11. Informational Items To/From Mayor, Council, and City Manager.**

Councilmember Brewster reported that she will be absent next week; she will try to call in for some of the meeting.

Vice Mayor Evans requested a memo update on the traffic circle in La Plaza Vieja.

She also requested a report from the Police Department regarding the fees collected on nuisance issues.

Lastly, she asked for more information on a pathway under the tracks that connects Old Town to La Plaza Vieja. She would like some additional information on that project. Mr. Burke explained that it is a capital improvement project that has been designed but is delayed due to funding issues.

Mayor Nabours indicated that he had seen some cities with an ordinance that holds owners liable for the acts of their tenants. He requested that this topic be considered for a future agenda item.

Mayor Nabours attended the Housing Symposium and found it to be educational and enlightening.

Mr. Burke thanked the Council for coming and seeing the new Geotubes in action; he thanked the Utilities Department for their good work in getting them up and running.

**12. Adjournment**

The Work Session of the Flagstaff City Council held October 28, 2014, adjourned at 9:24 p.m.

**SPECIAL MEETING****1. Call to Order**

Mayor Nabours called the Special Meeting of October 28, 2014, to order at 9:24 p.m.

**2. Consideration and Approval of the Settlement Agreement and Mutual Release :**

Between the City of Flagstaff and Capital Improvements, LLC and the Guarantee Company of North America, U.S.A. (***Approve Settlement Agreement with C.I. and surety for West/Arrowhead project***)

Ms. D'Andrea addressed Council stating that there was an Executive Session earlier to go through the various legal points of the agreement and mutual release. Council had asked for some changes to the agreement and the other party has agreed to those changes. The new settlement term is that the City would pay \$350,000 on Thursday, October 30, 2014 and hold the additional \$200,000 until releases and waivers were received from all the subcontractors, material men and suppliers. This is the only change in the agreement, the rest would be the same as presented.

**Moved by** Councilmember Mark Woodson, **seconded by** Vice Mayor Coral Evans to approve the settlement of CV2014-053783, between the City and its contractor, Capital Improvements, LLC and the contractor's surety, Guarantee Company of North America, for \$550,000.00 as amended by the City Attorney. The agreement will contain mutual releases and will require lien releases from all subcontractors, suppliers and materialmen.

**Vote:** 7 - 0 Passed - Unanimously

### 3. Adjournment

The Special Meeting of the Flagstaff City Council held October 28, 2014, adjourned at 9:27 p.m.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

#### CERTIFICATION

STATE OF ARIZONA,       )  
                                      ) ss.  
Coconino County.        )

I, ELIZABETH A. BURKE, do hereby certify that I am the City Clerk of the City of Flagstaff, County of Coconino, State of Arizona, and that the above Minutes are a true and correct summary of the Meeting of the Council of the City of Flagstaff held on October 28, 2014. I further certify that the Meeting was duly called and held and that a quorum was present.

DATED this 2nd day of December, 2014.

\_\_\_\_\_  
CITY CLERK

**CITY OF FLAGSTAFF  
STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Stacy Saltzburg, Deputy City Clerk  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



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**TITLE:**

**Consideration and Action on Liquor License Application:** Lauren Merrett, "Field House Chicken and Waffles", 2500 S. Woodlands Village Blvd. #28, Series 12 (restaurant), New License.

**RECOMMENDED ACTION:**

Hold the Public Hearing

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with no recommendation; or
- 3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

**Policy Decision or Reason for Action:**

Lauren Merrett is the agent for a new Series 12 (restaurant) liquor license for Field House Chicken and Waffles.

**Financial Impact:**

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

**Connection to Council Goal:**

Effective governance (Regulatory action)

**Has There Been Previous Council Decision on This:**

Not applicable.

**Options and Alternatives:**

- 1) Table the item if additional information or time is needed.
- 2) Make no recommendation.
- 3) Forward the application to the State with a recommendation for approval.
- 4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

**Background/History:**

An application for a new Series 12 liquor license was received from Lauren Merrett for Field House Chicken and Waffles.

A background investigation performed by Sgt. Matt Wright of the Flagstaff Police Department resulted in a recommendation for approval.

A background investigation performed by Tom Boughner, Code Compliance Manager resulted in no active code violations being reported.

Sales tax and licensing information was reviewed by Ranbir Cheema, Tax, Licensing & Revenue Manager, who stated that the business is in compliance with the tax and licensing requirements of the City.

**Key Considerations:**

Because the application is for a new license, consideration may be given to both the location and the applicant's personal qualifications.

A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

The deadline for issuing a recommendation on this application is December 4, 2014.

The applicant is not required to provide the distance between the applicant's business and the nearest church or school for government; and the State does not require a geological map or list of licenses in the vicinity for any license series.

**Expanded Financial Considerations:**

This business will contribute to the tax base of the community.

**Community Involvement:**

The application was properly posted on November 5, 2014.

No written protests have been received to date.

**Expanded Options and Alternatives:**

- 1) Table the item if additional information or time is needed.
- 2) Make no recommendation.
- 3) Forward the application to the State with a recommendation for approval.
- 4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

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**Attachments:**     [Field House - Letter to Applicant](#)  
                          [Hearing Procedures](#)  
                          [Series 12 Description](#)  
                          [Field House - PD Memo](#)  
                          [Field House - Code Memo](#)

Field House - Tax Memo

OFFICE OF THE CITY CLERK

November 20, 2014

Field House Chicken and Waffles  
Attn: Lauren Merrett  
736 S. Longmore St.  
Chandler, AZ 85224

Dear Ms. Merrett:

Your application for a new Series 12 liquor license for Field House Chicken and Waffles at 2500 S. Woodlands Village Blvd., Ste 28., was posted on November 5, 2014. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Monday, November 3, 2014 which begins at 6:00 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application is set to expire on November 25, 2014 and the application may be removed from the premises at that time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg  
Deputy City Clerk

Enclosure





# City of Flagstaff

## **Liquor License Application Hearing Procedures**

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. The presiding officer will then close the public hearing.
8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

## **R19-1-702. Determining Whether to Grant a License for a Certain Location**

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
  2. Number and types of licenses within one mile of the proposed premises;
  3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
  4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
  5. Residential and commercial population density within one mile of the proposed premises;
  6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
  7. Effect on vehicular traffic within one mile of the proposed premises;
  8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
  9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
  10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
  11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
  12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

## License Types: Series 12 Restaurant License

Non-transferable

On-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

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### PURPOSE:

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

### ADDITIONAL RIGHTS AND RESPONSIBILITIES:

An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of \$20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.

## MEMORANDUM

Memo # 14-109-01

**TO:** Chief Kevin Treadway

**FROM:** Sgt. Matt Wright

**DATE:** November 18, 2014

**RE:** LIQUOR LICENSE APPLICATION – SERIES 12- FOR “Field House Chicken and Waffles”

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On November 18, 2014, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Lauren Merrett (Agent), Ryan Field, Jarred Field, Timothy Pacatte, and Brian Terpay (Controlling Persons). Lauren Merrett is the listed Agent on the license for administrative purposes only and will not be active in the day to day operations. Field House Chicken and Waffles is located at 2500 S Woodlands Village Blvd #28 in Flagstaff. This is an application for the new series 12 license #12033366 which is currently operating with an interim permit.

I conducted a query through local systems and public access on Lauren Merrett (Agent), Ryan Field, Jarred Field, Timothy Pacatte, and Brian Terpay and nothing negative was found on Jarred Field or Timothy Pacatte. Ryan Field was found to have been arrested for DUI in 2005 which was ultimately dismissed. Brian Terpay stated he was arrested in 2005 for a DUI which he plead guilty to and the charge was reduced to reckless driving. I spoke with Ryan Field who stated Christopher Brickey would be assisting him in the day to day operation of the restaurant. Christopher Brickey had not been listed in the liquor license application. Ryan stated he would do so with the state liquor department prior to the issuance of the license if necessary. Christopher was found to have been arrested in 2013 for Disorderly Conduct and 2007 for possession of marijuana (misdemeanor). Ryan also confirmed all owners and staff of the restaurant have completed the mandatory liquor law training courses. The Field House Chicken and Waffles has taken over the lease from the restaurant that was previously in suite #28 called Pizza Furiosa.

No liquor law violations could be located for Field House Chicken and Waffles. I did find that part owner Ryan Field is also part owner in several restaurants in Arizona and Colorado. I found Ryan has ownership of 6 other restaurants in Arizona, two in Colorado, and one in Kansas. Ryan listed 9 liquor violations of which the businesses he was part owner in were either warned or fined. The most recent violation was dated May 2013. Ryan Field, Jarred Field, Timothy Pacatte, and Brian Terpay are all part owners of Taverna Greek Grill located in Flagstaff. I found Taverna received two liquor law violations for not having a manager's agreement on file and another for removal of spirituous liquor from license premise, both fines were paid on January 2014. No other liquor violations could be located on the other applicants.

As a result of this investigation, a recommendation to Council would be for approval.



## Planning and Development Services Memorandum

**November 18, 2014**

**TO:** Stacy Saltzburg, Deputy City Clerk

**THROUGH:** Roger E. Eastman, AICP, Comprehensive Planning and Code Administrator

**FROM:** Tom Boughner, Code Compliance Mgr. *REE*

**RE:** Application for Liquor License #12033366  
2500 South Woodlands Village Blvd. St# 28  
Flagstaff, Arizona 86001  
Assessor's Parcel Number 112-29-01C  
Lauren Merrett on behalf of Field House Chicken & Waffles

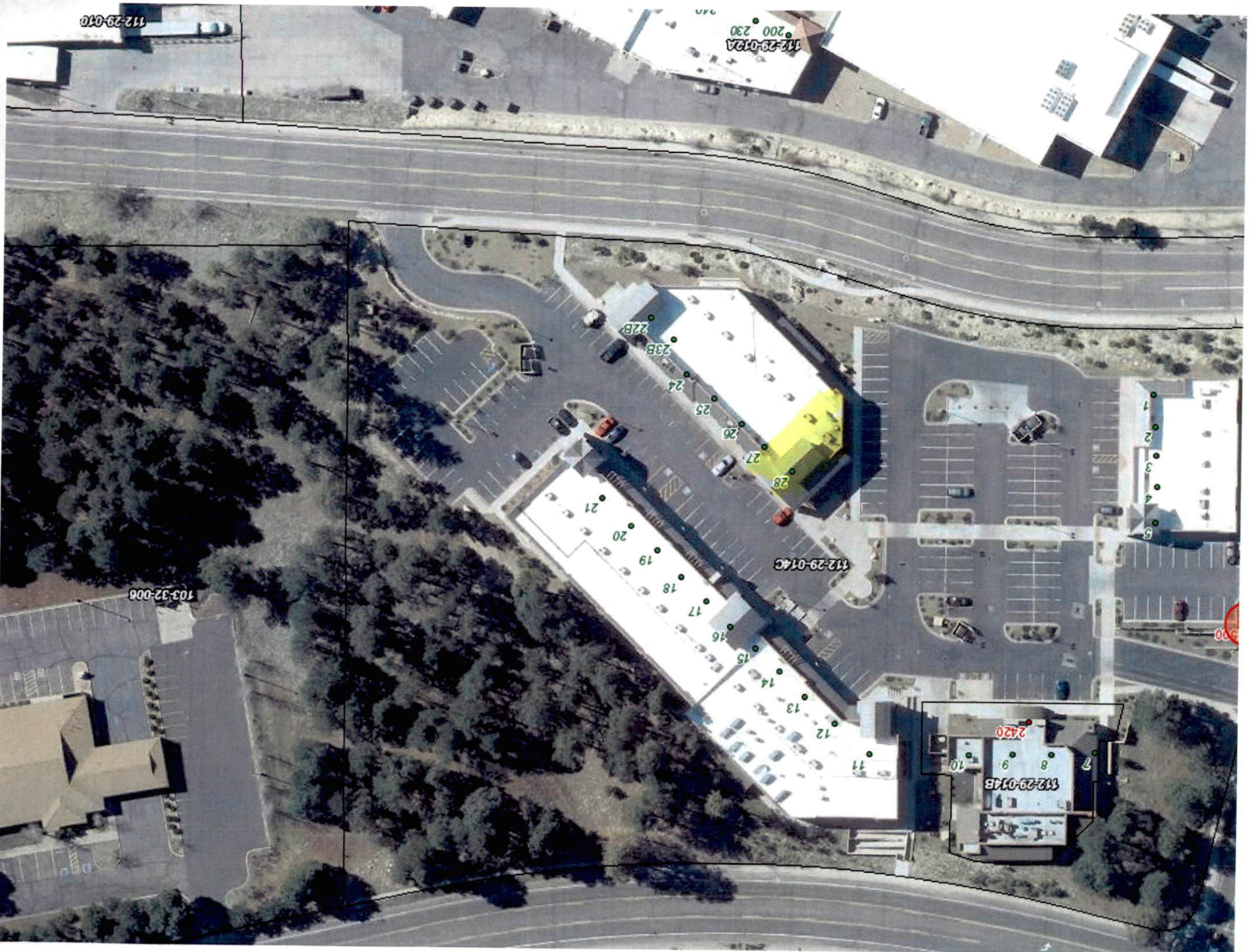
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This application is a request for a new, Series 12 Restaurant liquor license, by Lauren Merrett on behalf of Field House Chicken & Waffles. This restaurant is located within the Highway Commercial district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.

This liquor license is recommended for approval.





112-29-010

112-29-012A  
200 230

103-32-006

112-29-014C

2420

112-29-014B



# Memo

To: Stacy Saltzberg, Deputy City Clerk

From: Ranbir Cheema - Tax, Licensing & Revenue Manager

Date: November 13, 2014

Re: Series 12 Liquor License – New License – Field House Chicken & Waffles

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Applicant FNB Flag LLC DBA Field House Chicken & Waffles with Ryan Field and Timothy S Pacatte as its principals is properly licensed with the City of Flagstaff for Sales Tax purposes. They have not been in business long enough to file their first tax return yet but I do not foresee any issues regarding that at this time. They are currently in good standing with the sales tax section.

/liquor licenses/Field House.doc

## CITY OF FLAGSTAFF STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Randy Whitaker, Project Manager  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



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### TITLE:

**Consideration of Construction Contract Change Order #1:** Flagstaff Urban Trail System (FUTS) Signage Project (*Approve Change Order #1 to FUTS Signage Project contract*)

### RECOMMENDED ACTION:

Approve Change Order No. 1 with Conco Concrete Specialist LLC in the amount of \$80,000 and extend the contract by 60 calendar days.

### Policy Decision or Reason for Action:

Approving this change order will add an additional 80 signs to the contract and compensate the Contractor for additional quantities associated with excavating the post holes in rock and removal of existing signs. The change order also extends the contract by 60 calendar days for a new project completion date of May 5, 2015.

### Financial Impact:

~~The project is funded by a Federal Highway Administration, Recreational Trails Program (RTP) grant through Arizona State Parks in the amount of \$227,777. The project is also budgeted in the FUTS Signage Program Account #045-05-111-3002-5-4426 FY 2015 in the amount of \$4,000.00. Additional funds will be utilized from other FUTS Accounts, described below, for the total construction cost of \$232,632.~~

**The project is funded from a federal Regional Trails Program (RTP) grant (65.2%) and city funds (34.8%). The grant funds have additional capacity and can absorb their share of \$52,160. The City portion (\$27,840) will come from the \$50,000 set aside in FY2015 for Special Projects and Un-programmed Work line item.**

### Connection to Council Goal and/or Regional Plan:

COUNCIL GOALS:

1. Repair Replace maintain infrastructure (streets & utilities)

### Has There Been Previous Council Decision on This:

Yes, a Grant IGA with Arizona State Parks was approved on November 05, 2010; project was awarded September 16, 2014.



**Options and Alternatives:**

- Approve the Change Order as recommended which would satisfactorily complete the project.
- Reject the change Order, which may result in canceling the project.

**Background/History:**

The K-signs added with this change order were not included in the original scope due to the estimated construction cost. The bid came in lower than the estimate so it was decided to ask Conco to give us a unit rate for the K-signs. Reviewing the bids the unit rate of \$500 per sign is a competitive rate if K-signs were bid at a later date.

Several weeks into the project it became apparent that the quantity for excavating the post holes in rock and existing sign removal was going to be significantly higher than in the bid.

Given the difficult nature of determining if the post holes were in consolidated rock verses just cobble, the City and Contractor determined that a lump sum rate was appropriate. The Contractor will take full responsibility for any conditions encountered.

**Key Considerations:**

This is a joint project between the Arizona State Parks and the City. This change order amount has been authorized by the Arizona State Parks as grant eligible. The Grant will pay for 65% of the change total project cost.

**Expanded Financial Considerations:**

The estimated additional quantities and cost are:

	<u>Quantity</u>	<u>Unit Rate</u>	<u>Amount \$</u>
1.02 Existing Sign Removal	160	200	32,000
3.01 Rock Excavation	45	1000	45,000
n.a. K Signs	80	500	36,000
n.a Misc. Items	1	10000	<u>10,000</u>
Total Additional Cost:			123,000

The total cost of the above was negotiated for \$95,000. The pending change order will use the \$15,000 Contract allowance and \$80,000 additional funds for a new contract total of \$232,632. Budgeted funds will be from other FUTS projects (045-05-111-3305-5, 045-05-111-3018-5 and 040-05-111-3288-5) until the grant reimbursement occurs.

**Community Benefits and Considerations:**

The K-signs are Adopt-A-FUTS signs. This will involve the community in litter control, light maintenance and informing the City of any safety issues.

**Community Involvement:**

Inform:

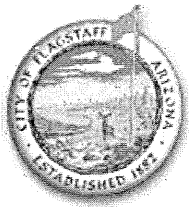
A number of presentations were made to the Bicycle and Pedestrian Advisory Committees, Parks and Recreation and Open Space Commissions, and several outside groups at the beginning of the design process.

**Expanded Options and Alternatives:**

- Approve the Change Order as recommended.
- Reject the change Order, which would result in further negotiations with Contractor.

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**Attachments:**     Change Order #1



# CITY OF FLAGSTAFF – CHANGE ORDER

☒ CONFIRMING CHANGE ORDER NO. 1  
☐ CONSULTING CONTRACT CHANGE ORDER NO. \_\_\_\_\_  
☐ CONSTRUCTION CONTRACT CHANGE ORDER NO. \_\_\_\_\_

PROJECT NO. ST3002C PROJECT NAME: FUTS Signage Project  
 FILE NO. 03-13009 Project Manager: Randy Whitaker  
 TO: Conco Concrete Specialist LLC

You are hereby directed to make the herein described changes from the plans and specifications or do the following described work not included in the plans and specifications on this contract. Description of work to be done:

1) For the total lump sum of \$45,000 Contractor shall be responsible for all additional sign removal and rock excavation. Consisting of:

- The lump sum is in addition to the original extended unit rate for the Bid Items 1.02 Existing Sign Removal and 3.01 Rock Excavation.
- Sign removal shall be limited to signs required for installation of new signs

2) K signs: Scope shall be revised to include 80 K-Signs at a unit rate of \$500.00 for a total of \$40,000. Signs shall conform to the Flagstaff Urban Trail System Sign Manual, Rev 06/26/2014(135 Pages).

3) A lump sum of \$10,000 shall be compensation for cost due to:

- Determination of appropriate rock excavation equipment
- ADOT Bases – signs located within the ADOT right-of-way shall comply with ADOT Standard Drawing Detail S-1, Sheet 2 of 3, 2" Single Post Foundation Detail except main post shall not be perforated. Larger post shall comply with ADOT Standard Drawing Detail S-1, Sheet 3 of 3 which is the triangle break away base.
- ADOT Permit – ADOT permit is still in progress. No additional cost will be considered as long as the permit is obtained within the contract time.
- Work Access – Contractor has had an opportunity to review site conditions. No additional compensation will be granted for site access.
- Blue Stake – No additional compensation will be granted due to coordination with City for marking locations for blue stake.

4) Unless specified otherwise original contract unit prices for all other work shall remain in effect.

Change Order originated by: ☒ CITY OF FLAGSTAFF ☐ CONTRACTOR ☐ CONSULTANT ☐ OTHER \_\_\_\_\_

Project Manager	<u>October 30, 2014</u>	Approval Recommended	<u>[Signature]</u>
C.O. Committee Meeting Date	<u>November 6, 2014</u>	Approval Recommended	<u>[Signature]</u>
Community Development Dir.	<u>11/6/14</u>	Approval Recommended	<u>[Signature]</u>
City Attorney		Approval Recommended	
City Manager		Approval Recommended	
City Council Meeting Date	<u>December 2, 2014</u>	Approval Recommended	

ORIGINAL CONTRACT PERIOD	<u>150</u> Days	Date (03/06/15)	ORIGINAL CONTRACT VALUE	\$ <u>152,632.00</u>
PRIOR TIME CHANGES	<u>0</u> Days	(03/06/15)	TOTAL PRIOR VALUE CHANGES	\$ <u>0.00</u>
THIS TIME CHANGE	<u>60</u> Days	(05/05/15)	VALUE OF THIS CHANGE	\$ <u>80,000.00</u>
NEW CONTRACT PERIOD	<u>210</u> Days	(05/05/15)	NEW CONTRACT VALUE	\$ <u>232,632.00</u>

We, the undersigned contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefore the prices and time extensions shown above.

FIRM NAME: Conco Concrete Specialist LLC

Accepted Date \_\_\_\_\_ By \_\_\_\_\_

## CITY OF FLAGSTAFF

<input checked="" type="checkbox"/>	CONFIRMING CHANGE ORDER NO.	<u>1</u>
<input type="checkbox"/>	CONSULTING CONTRACT CHANGE ORDER NO.	<u>          </u>
<input type="checkbox"/>	CONSTRUCTION CONTRACT CHANGE ORDER NO.	<u>          </u>

PROJECT NO. ST3002CPROJECT NAME: FUTS Signage ProjectFILE NO. 03-13009PROJECT MANAGER: Randy Whitaker**JUSTIFICATION:**

The K-signs added with this change order were not included in the original scope due to the estimated construction cost. The bid came in lower than the estimate so it was decided to ask the Conco to give us a unit rate for the K-signs. Reviewing the bids the unit rate of \$500 per sign is a competitive rate if K-signs were bid at a later date.

Several weeks into the project it became apparent that the quantity for excavating the post holes in rock and existing sign removal was going to be significantly higher than in the bid.

Given the difficult nature of determining if the post holes were in consolidated rock verses just cobble the City and the Contractor determined that a lump sum rate and the Contractor taking full responsibility for any conditions encountered was appropriate.

**TIME ANALYSIS:** This work will require 60 additional calendar days to the contract for a total of 210 calendar days.

**COST ANALYSIS:** Adding this work as a change order is likely less expensive than going out to bid in the future as a separate project.

## Original Bid Items and Quantities:

Bid Item	Description	Quantity	Unit Rate \$	Extended \$
1.02	Existing Sign Removal	20	200	4000
3.01	Rock Excavation	15	1000	15000

## Estimated Additional Quantities and Cost:

1.02	Existing Sign Removal	160	200	32,000
3.01	Rock Excavation	45	1000	45,000
n.a.	K Signs	80	500	36,000
n.a.	Misc Items	1	10000	<u>10,000</u>

Total Additional using Unit Rates 123,000

The total cost of the above was negotiated for \$95,000. The pending change order will use the \$15,000 Contract allowance and \$80,000 additional funds for a new contract total (Bid Amount) of \$232,632

Inadvertently no funds were carried forward from previous year for this project. Budgeted funds will be transferred from 040-05-111-3305-5, 040-05-111-3018-5 and 040-05-111-3288-5.

**CITY OF FLAGSTAFF****PROJECT STATUS FORM**

PROJECT NAME: FUTS Signage Project

☐ Design  
☒ Construction  
☐

PROJECT NO. ST3002C

FILE NO. 03-13009

ACCT NO. 040-05-111-3002-5-4433	100 %	\$232,632.00
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		NEW CONTRACT TOTAL \$232,632.00

CITY COUNCIL APPROVAL: September 16, 2014	ORIGINAL CONTRACT AMT: \$152,632.00
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BUDGET AMT: \$445,000	FY: 14/15
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NOTICE TO PROCEED: October 6, 2014	TIME (No. Days): 150
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COMPLETION DATE: March 6, 2014	ORIGINAL CONTRACT ALLOWANCE: \$15,000.00
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CONSULTANT: None	LOCATION: N.A.
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CONTRACTOR: Conco Concrete Specialist	LOCATION: Lakeside, AZ
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Project Manager: Randy Whitaker

Change Orders	C.O. Amount	C.O. Day	Council Date	REASON FOR CHANGE
Revision Date	New Total	New Total	New Comp. Date	
1	\$80,000.00	60	N/A	Addition Signs were added to project. Rock and sign removal quantities increased.
10/30/14	\$232,632.00	210	05/05/14	

COMMENTS: \_\_\_\_\_

NOTE: IF CHANGE ORDER ACCOUNT NUMBER OR DISTRIBUTION DIFFERS FROM THAT ABOVE, IT MUST BE SPECIFICALLY NOTED.

## CITY OF FLAGSTAFF STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Dan Folke, Planning Director  
**Co-Submitter:** Rick Barrett, City Engineer  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



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### TITLE:

**Consideration and Approval of Contract:** P3 Pre-development Agreement between the City of Flagstaff, Arizona Department of Transportation and Vintage Partners, LLC. (Initial Agreement for the extension of Beulah Blvd., realignment of University Ave., and relocation of ADOT facilities).

### RECOMMENDED ACTION:

Staff recommends City Council authorize the City Manager to sign the P3 Pre-development Agreement.

### Policy Decision or Reason for Action:

P3 is a public/private partnership between the City of Flagstaff, Arizona Department of Transportation and Vintage Partners, LLC. The resulting project will relocate the existing ADOT facilities on Milton Road to the existing Harkins Theater site on Woodlands Village Boulevard, enable the completion of Beulah Boulevard to University Avenue and the realignment of University Avenue, and will include the redevelopment of the existing ADOT property.

The pre-development agreement provides an overview of the various transactions, authorizes Vintage Partners to prepare and submit required materials for a Site Plan and Rezoning application for ADOT and City property located between Milton Parkway and Beulah Avenue, provides an anticipated schedule, requires an implementation agreement between ADOT and Vintage Partners, provides the term of the agreement, provides remedies for disputes and includes miscellaneous provisions required for an ADOT P3 project.

### Financial Impact:

The City purchased the 9.23 acre Fresquez property in 2005 and will complete the University/Beulah roadway improvements using voter approved Transportation bond funds. No additional funding is anticipated at this time.

### Connection to Council Goal and/or Regional Plan:

#### COUNCIL GOALS:

1. Repair Replace maintain infrastructure (streets & utilities)
5. Retain, expand, and diversify economic base
11. Effective governance

## REGIONAL PLAN:

Goal T.1. Improve mobility and access throughout the region.

Policy T.1.4. Provide a continuous transportation system with convenient transfer from one mode to another.

Policy T.1.7. Coordinate transportation and other public infrastructure investments efficiently to achieve land use and economic goals.

Goal T.2. Improve transportation safety and efficiency for all modes.

Policy T.2.1. Design infrastructure to provide safe and efficient movement of vehicles, bicycles, and pedestrians.

Goal T.4. Promote transportation infrastructure and services that enhance the quality of life of the communities within the region.

## **Has There Been Previous Council Decision on This:**

The City purchased the 9.23 acre Fresquez property in 2005 for the purpose of completing the University and Beulah roadway improvements.

## **Options and Alternatives:**

1. Approve the P3 Pre-Development Agreement.
2. Work independently with ADOT to acquire the necessary right-of-way and relocate their facilities.

## **Background/History:**

In 2005 the City purchased 9.23 acres located west of the existing ADOT facility at 1801 S. Milton Road with the intention of completing Beulah Boulevard to University Avenue and to realign the west leg of University Avenue to connect at the existing traffic signal of Milton Road and east University. City staff completed a preliminary realignment plan which is attached to this report and programmed \$7.4 million in the FY2015-2019 Capital Improvement Plan for design and construction. Both the acquisition and new roadways are funded by the Transportation Tax. The State of Arizona allows the Arizona Department of Transportation to participate in public/private partnerships (P3) that provide a benefit to the ADOT operations and the public interest. From this the P3 idea for this location was formed and ADOT issued a Request for Proposals for the redevelopment of the site to include the proposed roadway improvements. The successful proposal needed to include a new location ready for occupancy for the ADOT facility.

The selection committee included representatives from the City and ADOT and the RFP resulted in 4 proposals. The successful proposal was prepared by Vintage Partners, LLC. The proposal is to relocate ADOT to the existing Harkins Theater on Woodlands Village Boulevard and redevelop the existing site with a mixed use project that will dedicate the right-of-way required to construct the University/Beulah improvements. Multiple transactions are required to accomplish the project. The City will deed the 9.23 acre Fresquez parcel to ADOT in exchange for the ADOT land needed to complete the University realignment. ADOT will deed their 6.74 acres and the 9.23 acre Fresquez parcel (less the ROW needed for University and Beulah) to Vintage Partners in exchange for their new facility on Woodlands Village Boulevard. Vintage Partners will complete the necessary remodel and other site improvements required for ADOT to relocate. Although it is not included in the pre-development agreement, Vintage Partners has an agreement with Harkins Theater relating to the construction of a new theater on the east side of town between the Flagstaff Mall and Marketplace, which must be completed and occupied before the current Harkins site is available to begin the remodel.

## **Key Considerations:**



Staff supports moving forward with the P3 project. While the capital funding for the roadway improvement has been programmed, obtaining the land needed for ROW and relocating ADOT would be significant expense to the project.

**Expanded Financial Considerations:**

The Beulah Boulevard extension and University Avenue realignment are programmed in the current FY 2015-2019 Capital Transportation Plan.

**Community Benefits and Considerations:**

Although the primary benefit of the P3 project for the City is the completion of the University/Beulah roadway improvements, the redevelopment of the ADOT site with a mixed use project and a new larger theater on the east side of town will have an economic benefit to the community. The University/Beulah roadway improvement has been identified as an important project to incrementally address the existing congestion problem on Milton Road.

**Community Involvement:**

Inform - While the public has not had a formal role in the proposed P3 projects, the redevelopment of the ADOT site will require a rezoning application which will include the required public notifications, neighborhood meeting and public hearings.

Involve - Public participation is included in the rezoning process.

Collaborate - P3 is certainly a collaboration between the State, City and a private company. As the process continues there will be opportunity for the public to provide direct input on the proposed redevelopment of the ADOT site.

Empower - the voters of Flagstaff approved the 2000 Transportation Tax which funded the Fresquez acquisition and the \$7.4 million programmed in the Capital program for the University/Beulah roadway improvement.

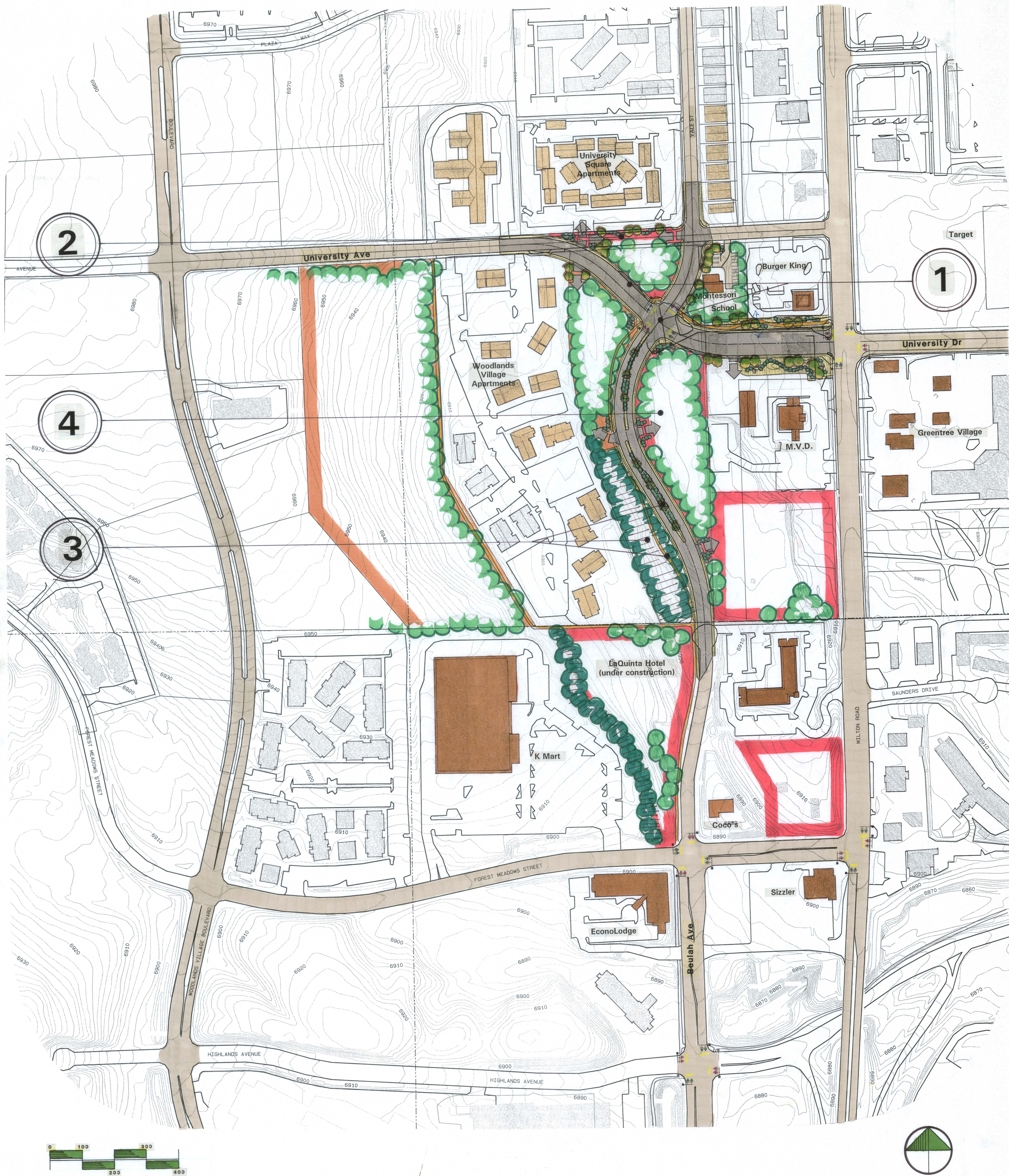
**Expanded Options and Alternatives:**

The primary reason for City participation in P3 is to see the University/Beulah roadway improvements completed. Acquisition of ADOT property is necessary to realign University Avenue. Staff believes the P3 is the best option to complete the roadway improvement. The alternative is to work directly with ADOT to acquire the necessary land for public right-of-way. However, the roadway improvements cannot be completed without relocating the ADOT facilities which is why staff believes the P3 is the best way to accomplish the transportation improvement.

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**Attachments:**     University/Beulah Realignment Map  
                             P3 PDA





# UNIVERSITY AVE & BEULAH BLVD REALIGNMENT



When recorded, return to:

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**PRE-DEVELOPMENT AGREEMENT**

=====

The date of this Pre-Development Agreement (this “Agreement”) is as of its Effective Date. The parties to this Agreement are the Arizona Department of Transportation, a division of the State of Arizona (“ADOT”), the City of Flagstaff, an Arizona municipal corporation (“City”) and Vintage Partners, LLC, an Arizona limited liability company (“Vintage”). Each of ADOT, City and Vintage may be referred to individually as a “Party”; or collectively as the “Parties.”

Recitals.

As background to this Agreement, the Parties, recite, state and acknowledge each of the following:

A. ADOT is empowered by Arizona Revised Statutes §28-401 and §28-7703 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

B. City is empowered by Arizona Revised Statutes §9-500.05 to enter into this agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the City.

C. ADOT owns certain real property (the “ADOT Property”) located within the City and as legally described on Exhibit A attached to this Agreement.

D. The City owns certain real property (the “City Property”) located within the City and as legally described on Exhibit B attached to this Agreement.

E. Vintage has the contractual right to purchase certain real property (the “Vintage Property”) located within the City and as legally described on Exhibit C attached to this Agreement.

F. The Parties are contemplating a series of contingent transactions which, if all contingencies are met, will result in the following:

1. Vintage will purchase the Vintage Property and, in collaboration with ADOT, will design and construct new operational facilities on the Vintage Property for use by ADOT (the “New ADOT Facilities”). Approval of the building’s interior design is in sole

discretion of ADOT. All other exterior building design shall be subject to all local site plan and permit review procedures.

2. The City, through one or more intergovernmental agreements, will convey the City Property to ADOT as just compensation for the “Roadway Property” as defined in Recital (4) and in lieu of relocation benefits related to ADOT’s move from the facilities on the ADOT Property.

3. Concurrently with the conveyance described in Recital F(2) of this Agreement and subject to terms and conditions to be agreed upon, ADOT will convey the ADOT Property and the City Property to Vintage in exchange for the Vintage Property and the New ADOT Facilities that have been constructed on Vintage Property.

4. Concurrently with the conveyances described in Recital F(2) and in Recital F(3) of this Agreement, and subject to terms and conditions to be agreed upon, Vintage will convey or dedicate to the City, at no cost to the City, certain portions of the ADOT Property and the City Property (the “Roadway Property”) to be determined during the Rezoning (as defined in Agreements Section 1(C) to permit the City to design and/or construct, or to contract with Vintage to design and/or construct (pursuant to City’s procurement procedures), certain roadway improvements planned by the City. Those Roadway Improvements programmed in the City’s FY2015 FY2019 Transportation Plan at a value of \$7,375,000 as an extension of Beulah Boulevard north to University Avenue, and the realignment of a portion of University Avenue in that vicinity (collectively, the “Transportation Improvements”).

G. To accomplish the foregoing, which will be evidenced and undertaken pursuant to a series of separate written agreements yet to be negotiated by, between and among the Parties, the Parties shall meet the conditions necessary to complete rezoning for the ADOT Property and the City Property. This Agreement has been procured pursuant to A.R.S. § 28-7703 *et seq.*, which authorizes ADOT to develop public-private partnership (“P3”) projects using a variety of delivery methods, including pre-development agreements and implementation agreements; and pursuant to A.R.S. § 11-952, which authorizes inter-governmental agreements for various purposes. The related transactions contemplated by the Parties may be referred to in this Agreement as the “P3 Project”; and the series of separate written agreements referred to above to accomplish the P3 Project may be referred to collectively in this Agreement as the “P3 Project Documents.”

#### Agreements.

NOW THEREFORE, in consideration of the mutual promises and performance of the Parties as set forth in this Agreement, and the Recitals as set forth above, all references to zoning or rezoning(s) throughout this Agreement shall mean that the Parties agree as more fully described below to meet the conditions necessary for rezoning applications to be presented to the City Council whereupon the City Council shall consider the requests for rezoning(s).

#### 1. Rezoning the ADOT Property.

A. Pursuant to Section 10-20.30.020(A)(2) of the Flagstaff Zoning Code (the “Code”), ADOT acknowledges that Vintage is a party under contract to acquire the ADOT Property with rights to submit an application for the rezoning of the ADOT Property (the “ADOT Property Rezoning”).

B. ADOT agrees that Vintage, as a party under contract to acquire the ADOT Property, can: (i) execute and submit to the City (in its capacity as the processing municipality for the ADOT Property Rezoning) any required applications or similar documents or instruments required in connection with the ADOT Property Rezoning; and (ii) to process the ADOT Property Rezoning applications through all relevant City processes and programs. The authority of Vintage is expressly limited to those matters described in the preceding sentence.

C. “The ADOT Property Rezoning” means the rezoning of all or portions of the ADOT Property from its current zoning classifications to the classification(s) which permits the requested land uses along with the associated Site Plan and Development Agreement.

D. The Parties acknowledge that Vintage is undertaking the ADOT Property Rezoning in order that Vintage, and its successors and assigns, shall be subject to the ADOT Property Rezoning at the time of conveyance of the ADOT Property to Vintage.

E. The City, in its capacity as the processing municipality for the ADOT Property Rezoning, agrees and acknowledges Vintage’s authorization under the Code to execute and submit any required applications, and thereupon to pursue and prosecute the ADOT Property Rezoning.

## 2. Rezoning the City Property.

A. Pursuant to Section 10-20.30.020(A)(2) of the Flagstaff Zoning Code (the “Code”), this Agreement constitutes the authorization by the City for Vintage to: (i) execute and submit to the City (in its capacity as the processing municipality for the City Rezoning) any required applications or similar documents or instruments required in connection with the City Rezoning; and (ii) to process the City Rezoning applications through all relevant City processes and programs. The authority of Vintage is expressly limited to those matters described in the preceding sentence.

B. “City Rezoning” means the rezoning of all or portions of the City Property from its current zoning classification or classifications to the classification which permits the desired uses along with the associated Site Plan and Development Agreement. The Parties acknowledge that they are undertaking the City Rezoning in order that Vintage, and its successors and assigns, shall be subject to the City Rezoning at the time of conveyance of the City Property to Vintage.

C. The City, in its capacity as the owner of the City Property, agrees and acknowledges Vintage’s authorization under the Code to execute and submit any required applications, and thereupon to pursue and prosecute the City Rezoning. The authority of Vintage is expressly limited to those matters described in the immediately preceding sentence.

3. General Agreements Regarding the ADOT Rezoning and City Rezoning.

A. The ADOT Property Rezoning and the City Rezoning (collectively, the “Rezonings”) will be prosecuted by Vintage at its sole cost and expense, including but not limited to the payment of all application fees and the cost of preparing all plans, plats, studies, exhibits and other materials required to be submitted with such applications.

B. Vintage shall concurrently apply for the ADOT Property Rezoning and City Rezoning promptly following execution of this Agreement by all Parties, and shall thereafter concurrently, diligently prosecute the ADOT Property Rezoning and City Rezoning applications to completion, unless and until the P3 Project as currently contemplated is abandoned by one or more of the Parties in accordance with this Agreement.

C. Subject to all applicable laws, ADOT and the City shall cooperate in good faith with Vintage to process the ADOT Rezoning and City Rezoning applications, recognizing that the Flagstaff City Council retains its full discretion to approve or deny the rezoning application.

D. The Parties agree to execute and deliver applications, documents, instruments, submittals, consents and other documents required to effectuate or evidence this Agreement and to evidence the authorization of Vintage by ADOT and the City to proceed hereunder.

E. Vintage shall apply for and prosecute its applications for Milton Road access and impacts directly with ADOT.

4. Other Pre-development Activities.

A. Schedule. The Parties shall exercise good faith and Commercially Reasonable Efforts (efforts which use a standard of reasonableness determined by what a similar person or entity would do according to the standards of the land use and development industry) to proceed with the following acts and undertakings with respect to the P3 Project on the target schedule set forth below, which schedule is not a representation of agreement binding upon any of the Parties, but simply reflects current pre-development discussions and projections as of the date of this Agreement:

1. 30 days from the Effective Date - Vintage submits to ADOT the final site plan and final office space plan for the Vintage Property;
2. 60 days from the Effective Date - Vintage submits to City a concept plan for the ADOT/City property; Vintage will subsequently submit to City for Site Plan review and approval for the new ADOT office/public service use at the Vintage property;
3. 90 days from the Effective Date - Vintage submits to the City the completed applications for the ADOT Property Rezoning and the

City Rezoning; ADOT approval (at ADOT's sole discretion) of site plan and office space plan at Vintage Property;

4. 315 days from the Effective Date - Vintage must obtain City staff completeness and substantive approval of its site plan, Direct Ordinance Zoning Map Amendments and regional plan amendment;
5. 390 days from the Effective Date - The ADOT Property Rezoning, City Rezoning, site plan and development agreement completed and decided upon by City of Flagstaff (at City's sole discretion);
6. 390 days from the Effective Date – Execution of Implementation Agreement between ADOT and Vintage, IGA between ADOT and the City, Development Agreement between the City and Vintage, and all other required agreements.

B. New ADOT Facilities. ADOT and Vintage will work collaboratively toward the approval of preliminary site plan and all pre-development plans in connection with the new ADOT Facilities, including determining applicable programing, scope and other related predevelopment schedules and activities. ADOT may approve or disapprove the preliminary site plan and all pre-development plans at its sole and absolute discretion.

C. Implementation Agreement. ADOT and Vintage will undertake the negotiation and drafting of an Implementation Agreement to be executed by them prior to any construction activity being undertaken by Vintage on the Vintage Property in connection with the construction of the New ADOT Facilities. If ADOT and Vintage fail to execute an Implementation Agreement, this agreement and the Project shall terminate and neither party shall have any claim or cause of action against another Party relating to this agreement.

5. Term. The term of this Agreement shall be through the first to occur of the following: (1) the completion (by appropriate action by the City Council of the City, acting in its sole discretion, and the passage of any applicable referral periods) of both the ADOT Property Rezoning and City Rezoning; (2) the execution by the Parties of all of the P3 Project Documents; (3) the termination or cancellation of this Agreement by a Party in accordance with, Section 6 or Section 7(c); or (4) June 30, 2016.

6. Remedies. In the event of a breach of this Agreement by a Party, the sole remedy of any other Party is to terminate this Agreement by written notice to the other Parties, in which event no Party shall have any further rights under this Agreement or any further responsibilities to any other Party arising from, under or in connection with this Agreement. No act or omission of any Party is specifically enforceable or susceptible of any other form of equitable relief, including but not limited to injunctive or special action relief. The Parties specifically disclaim and waive any right to seek or recover damages from or against any other Party arising from a breach of this Agreement or any provision hereof. Notwithstanding the foregoing, Vintage shall be required, as a condition for entering into an Implementation Agreement with ADOT, to certify

in writing that it has complied with the provisions of Sections 7(A), 7(D), 7(E), 7(F), 7(G), 7(I) and 7(J) of this Agreement.

7. Miscellaneous Provisions.

A. Indemnity and Insurance Requirements.

(1) General Indemnity: To the maximum extent allowed by law, Vintage shall indemnify, defend, and hold harmless the State of Arizona, acting by and through ADOT, and the City from any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including any attorneys' fees and/or litigation expenses, which may be brought or made against or incurred by ADOT and the City on account of loss of or damage to any property or for injuries to or death of any person, to the extent caused by, arising out of, or contributed to, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of Vintage, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incident to the performance of work under this Agreement, or arising out of Workmen's Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of Vintage and/or its Subcontractors or claims under similar such laws or obligations in connection with the work performed under this Agreement. Vintage's obligation under this Section shall not extend to any liability to the extent caused by the gross negligence of ADOT and the City, or their employees, except the obligation does apply to any gross negligence of Vintage which may be legally imputed to ADOT and the City by virtue of their ownership or possession of land.

(2) Insurance Requirements: Vintage shall cause all of Vintage's professional employees and subcontractors to procure and maintain, until all of their obligations under the Agreement have been discharged, including any warranty periods, insurance as follows:

Professional Liability (Errors and Omissions Liability)

Each Claim: \$1,000,000

Annual Aggregate \$2,000,000

(a) In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Vintage warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time the activities undertaken under this Agreement are complete.

(b) The policy shall cover professional misconduct or negligent acts for those professionals providing services under this Agreement.

(c) The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The State of Arizona and the City in no way warrant that the minimum limits contained herein are



sufficient to protect Vintage from liabilities that might arise out of the performance of the services under this Agreement by Vintage, its agents, representatives, employees or subcontractors, and Vintage is free to purchase additional insurance. Vintage shall provide coverage with limits of liability not less than those stated above.

(d) Additional Insurance Requirements: The policies required by this Agreement shall include, or be endorsed (blanket endorsements are not acceptable) to include the following provisions:

(i) Vintage's policies shall stipulate that the insurance afforded Vintage shall be primary insurance and that any insurance carried by ADOT, and its agents, officials, employees of the State of Arizona, and the City shall be excess and not contributory insurance, as provided by A.R.S. Section 41-621(E).

(ii) Coverage provided by Vintage shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

(e) Notice of Cancellation: With the exception of the statutory ten (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this Agreement in the insurance policies above shall require thirty (30) day notice to ADOT and the City. Such notice shall be sent directly to ADOT and the City by certified mail, return receipt requested.

(f) Acceptability of Insurers: Vintage's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona and the City in no way warrant that the above-required minimum insurer rating is sufficient to protect Vintage from potential insurer insolvency.

(g) Verification of Coverage: Vintage shall furnish ADOT and the City with certificates of insurance (ACORD form or equivalent approved by the State of Arizona and the City) as required by this Agreement. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the State of Arizona and the City before any activity contemplated by this Agreement commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of any activity contemplated by this Agreement and remain in effect for the duration of any activity contemplated by this Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of this Agreement.

All certificates required by this Agreement shall be sent directly to ADOT and the City. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona and the City reserve the right to require complete copies of all insurance policies required by this Agreement at any time.

(h) Subcontractors: Vintage's certificate(s) of insurance shall include all subcontracts as insured under its policies; or Vintage, at its sole election, shall furnish or cause its subcontractors to furnish to ADOT and the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

(i) Approval: Any modification or variation from the insurance requirement of this Agreement shall be made by ADOT in consultation with the Department of Administration, Risk Management Division and the City's Risk Management Division. Such action will not require a formal amendment to this Agreement, but may be made by administrative action.

B. Governing Law; Choice of Forum. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles).

C. Cancellation. This Agreement may be terminated or cancelled by a Party at any time prior to execution of an implementation agreement between ADOT and Vintage upon thirty (30) day written notice to the other Parties.

D. Lobbying Activities. Vintage certifies that, to the best of Vintage's knowledge and belief, no federal, state or local appropriated funds have been paid or will be paid by or on behalf of Vintage, to any person for influencing or attempting to influence an employee of any federal, state or local agency, member of Congress, City elected officials, an officer or employee of Congress, or an employee of a Member of Congress, an employee of the State of Arizona or the City in connection with the awarding of any federal, state or local contract, the making of any federal, state or local grant, the making of any federal, state or local loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification for any federal, state or local contract, grant, loan or cooperative agreement. Vintage also certifies that it shall require all subcontractors to make the foregoing certification and disclosure in their subcontracts with Vintage, and shall include the certification and disclosure provisions set forth above in all subcontracts that exceed \$10,000.00. Notwithstanding the foregoing, it is acknowledged that Vintage has retained a consultant (who is a registered lobbyist) to advise Vintage, but Vintage acknowledges and agrees that no payment to such consultant has involved or will involve federal, state or local appropriated funds.

E. Compliance with Arizona Tax Laws. By signing this Agreement on behalf of Vintage, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Vintage and the Vintage is, to the best of the undersigned's knowledge, not in violation of any laws of the State of Arizona concerning payment of any and all taxes, fees, charges or levies imposed by any governmental entity.

F. Nondiscrimination. Vintage shall comply with State Executive Order No. 99-4 and all other applicable laws concerning nondiscrimination, including but not limited to the Americans with Disabilities Act.

G. Maintenance and Inspection of Records. Vintage shall maintain hard copies of all work product and similar records related to this Agreement in a reasonably accessible location within Flagstaff or Phoenix metropolitan area. In addition, Vintage shall maintain electronic versions of all work product and similar records to the greatest extent possible accessible from those locations. Vintage shall retain and preserve all such records for a period of 10 years from the end of this agreement or the end of the implementation agreement, whichever is longer. For the duration of this Agreement and the 10 year period of records retention, Vintage shall make all such records relating to this Agreement available during normal working hours for inspection, audit or copying by ADOT or ADOT's representatives, for any purpose related to this Agreement, including monitoring Vintage's performance and verifying Vintage's compliance with the terms and conditions of this Agreement. Vintage shall require in any subcontract that its subcontractors retain their work product and similar records relating to activities undertaken pursuant to this Agreement for the same time period and under the same conditions as those relating to the records of Vintage.

H. No Partnership. This Agreement does not establish, and shall not be construed as, a legal partnership between the Parties.

I. Certifications and Registrations. Vintage certifies that it shall require and, upon ADOT's request, will provide evidence that all principals, employees and subcontractors of Vintage performing services under this Agreement hold all required professional certifications and registrations in compliance with all applicable laws.

J. Subcontracts. All subcontracts for or relating to activities to be performed under this Agreement shall be in writing, and Vintage shall include in each such subcontract terms and conditions sufficient to require compliance by the subcontractors with all applicable requirements of this Agreement. Inclusion of the provisions in subcontracts as required in this Agreement is subject to audit by ADOT.

K. Restrictions on Assignment and Transfer. Owing to the nature of the P3 Project, including the selection of Vintage because of its unique qualifications and ownership of (or unconditional right to acquire) the Vintage Property, no assignment of the rights granted to Vintage under this Agreement shall occur without the prior written consent of ADOT and the City, which consent may be given or withheld in ADOT's and the City's reasonable discretion. Any purported assignment, transfer or conveyance in violation of this Section shall be void and shall vest no rights in the purported assignee or transferee.

L. Limited Severability. Each Party believes that the execution, delivery and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring ADOT or the City to do any act in violation of any Applicable Laws, constitutional provision, regulation, code or charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such

circumstances, to do all acts and to execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed. For purposes of this Agreement, the term “Applicable Laws” means the federal, state, county and local laws (statutory and common law), ordinances, rules, regulations, permit requirements, and other requirements and official policies of the State of Arizona and of the City which apply or are in effect as of the Effective Date

M. Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

N. Notices.

(1) Addresses. Except as otherwise required by law, any notice required or permitted under this Agreement shall be in writing and shall be given by (a) personal delivery, (b) by United States Postal Service certified mail, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section, or (c) by any nationally recognized express or overnight delivery service (e.g. Federal Express or UPS), for next-day delivery, delivery charges prepaid:

If to ADOT:	Arizona Department of Transportation Attn: _____ 206 South 17 <sup>th</sup> Avenue, MDA _____ Phoenix, Arizona 85007
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With a required copy to:	Arizona Attorney General’s Office Attn: Bryan B. Perry, Esq. 1275 West Washington Street Phoenix, Arizona 85007-2926
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If to the City:	City of Flagstaff Attn: City Manager 211 West Aspen Avenue Flagstaff, Arizona 86001-5359
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With a required copy to:	City of Flagstaff Attn: City Attorney 211 West Aspen Avenue
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Flagstaff, Arizona 86001-5359

If to Vintage: Vintage Partners, LLC  
Attn: David C. Scholl  
2502 East Camelback Road, Suite 214  
Phoenix, Arizona 85016

With a required copy to: Dickinson Wright PLLC  
Attn: Gary L. Birnbaum, Esq.  
1850 North Central Avenue, Suite 1400  
Phoenix, Arizona 85004-4568

(2) Effective Date of Notices. Any notice sent by United States Postal Service certified mail shall be deemed to be effective the earlier of the actual delivery, or three (3) business days after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt (or refusal to accept receipt) by the addressee.

O. Time of Essence. Time is of the essence of this Agreement and each provision hereof.

P. Section Headings. The Section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

Q. Waiver. Without limiting the other terms or provisions of this Agreement, the Parties agree that neither the failure nor the delay of any Party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver of such right, remedy, power or privilege, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

R. No Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement.

S. Exhibits. The Parties agree that all references to this Agreement include all Exhibits designated in and attached to this Agreement, such Exhibits being incorporated into and made an integral part of this Agreement for all purposes.

T. Integration. Except as expressly provided herein, this Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof

and supersedes any prior agreement, understanding, negotiation or representation regarding the subject matters covered by this Agreement.

U. Consents and Approvals. Wherever this Agreement requires or permits the consent or approval of a Party to any act, document, use or other matter, such consent or approval shall be given or denied by such Party in its reasonable discretion, unless this Agreement expressly provides otherwise.

V. Amendment. No change or addition is to be made to this Agreement except by written amendment executed by all of the Parties. Upon amendment of this Agreement as established herein, references to “Agreement” shall mean this Agreement as amended. If, after the effective date of any amendment(s), the parties find it necessary to refer to this Agreement in its original, unamended form, they shall refer to it as the “Original Development Agreement.” When the Parties mean to refer to any specific amendment to the Agreement which amendment is unmodified by any subsequent amendments, the Parties shall refer to it by the number of the amendment as well as its effective date.

W. Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgment or consent.

X. Conflict of Interest Statute. This Agreement is subject to, and may be terminated by the City or the State of Arizona in accordance with the provisions of A.R.S. §38-511.

Y. Waiver. Vintage hereby waives and releases the City from any and all claims under A.R.S. § 12-1134, et seq., including any right to compensation for reduction to the fair market value of all or any part of the Vintage Property as a result of the rezoning of the Vintage property, or of the ADOT Property and the City Property following conveyance to Vintage. The terms of the foregoing waiver shall run with the Vintage Property and shall be binding upon all subsequent landowners, assignees, lessees and other successors, and shall survive the expiration or earlier termination of this Agreement.

Z. Effective Date. The effective date of this Agreement (the “Effective Date”) shall be the date of its recordation in the Official Records of Coconino County, Arizona, in accordance with the terms of A.R.S. §9-500.05.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement to be effective as of its Effective Date.

“ADOT”

ARIZONA DEPARTMENT OF  
TRANSPORTATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Director

Date: \_\_\_\_\_

“CITY”

CITY OF FLAGSTAFF,  
an Arizona municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Manager

Date: \_\_\_\_\_

Attested:

\_\_\_\_\_  
City Clerk

Approved:

\_\_\_\_\_  
City Attorney

“VINTAGE”

VINTAGE PARTNERS, LLC  
an Arizona limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Manager

Date: \_\_\_\_\_

Exhibit A

[Legal Description of ADOT Property]



Exhibit B

[Legal Description of City Property]

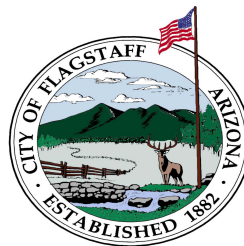
## Exhibit C

[Legal Description of Vintage Property]

## CITY OF FLAGSTAFF

### STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Tiffany Antol, Planning Development Manager  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



#### TITLE:

**Consideration and Adoption of Ordinance No. 2014-30:** An ordinance of the City Council of the City of Flagstaff, Arizona, extending and increasing the corporate limits of the City of Flagstaff, Coconino County, State of Arizona, pursuant to the provisions of Title 9, Chapter 4, Arizona Revised Statutes, by annexing certain land totaling approximately 3.14 acres located at 2701 S. Woody Mountain Road, which land is contiguous to the existing corporate limits of the City of Flagstaff and establishing city zoning for said land as RR, Rural Residential. ***(Annexation of property for Aspen Heights located on Woody Mountain Road) (PUBLIC COMMENT HAS CONCLUDED)***

#### RECOMMENDED ACTION:

- 1) Read Ordinance No. 2014-30 by title for the final time
- 2) City Clerk reads Ordinance No. 2014-30 by title only for the final time (if approved above)
- 3) Adopt Ordinance No. 2014-30

#### Policy Decision or Reason for Action:

The Flagstaff Planning and Zoning Commission conducted a Public Hearing to consider this Annexation request at its regular meeting on September 24, 2014. The Planning and Zoning Commission voted (6-0) to forward the request to the City Council with a recommendation of approval. Annexations are required to be adopted by ordinance.

#### Financial Impact:

None

#### Connection to Council Goal and/or Regional Plan:

##### COUNCIL GOALS:

Retain, expand, and diversify economic base  
 Effective governance

##### REGIONAL PLAN:

The current application was filed prior to the ratification of the Flagstaff Regional Plan 2030 (FRP 2030) and is therefore being reviewed against the policies of the Flagstaff Area Regional Land Use and Transportation Plan (RLUTP).

**LU1.6 - Require Urban Development to Locate within City Boundaries:** In order to ensure that all urban development can be provided with adequate public facilities and services, all urban land uses shall be located within the Urban Growth boundary and within the City's corporate boundary limits. The Regional Plan encourages urban land uses to locate only within incorporated areas in order to obtain City

services, utilities, and fire protection. The City shall consider the annexation of land into the city limits when the annexation of such property is consistent with the goals and policies of the Regional Land Use and Transportation Plan.

#### **Has There Been Previous Council Decision on This:**

The Public Hearing for both the annexation and rezone was opened on October 21, 2014, and continued on November 3, 2014. It was continued again to the November 18, 2014, meeting, although no further public comment was received, and at this meeting first reading of the Ordinance was held, with a vote of 5-2.

#### **Options and Alternatives:**

The City Council may approve the ordinance as proposed, approve the ordinance with conditions, or deny the ordinance.

#### **Background/History:**

A request by Aspen Heights to annex approximately 3.14 acres at the intersection of East Route 66 and Woody Mountain Road. The area subject to the annexation is a portion of parcel 112-01-019. This parcel is currently vacant and was at one time heavily forested before the Woody Fire in 2006. The parcel is located within the Resource Protection Overlay (RPO) Zone and still maintains forest resources towards the southern portion of the property. The parcel is located within the Urban Service Boundary and this small portion of the overall parcel is within County jurisdiction.

The current application was filed prior to the adoption of the Flagstaff Regional Plan 2030 (FRP 2030) and is therefore being reviewed against the policies of the Flagstaff Area Regional Land Use and Transportation Plan (RLUTP). For comparison purposes only, policies from both plans are identified and discussed. The RLUTP designates this parcel as Mixed-Use. This land use category requires an average density of seven dwelling units per acre. The Mixed-Use category may have an emphasis on either residential or non-residential. The objective of this classification is to mix land uses by providing housing, shopping, and employment. However, this category does not preclude single-use developments. The FRP 2030 designates this parcel as Future Urban within an Urban Activity Center. The density range required for residential mixed-use is eight dwelling units per acre and a minimum floor area ratio of 1.0 or greater.

This annexation is the first of a two-step process. The second being a Concept Zoning Map Amendment request to zone the parcel to the MR, Medium Density Residential Zone (33.33 acres) for a student housing development and the HC, Highway Commercial Zone (3.60 acres) for future commercial development. The Zoning Map Amendment application is being processed concurrently with this application but will not become effective until after the annexation has been completed. A full Zoning Map Amendment policy analysis can be found in that staff report.

#### **Key Considerations:**

Annexations are adopted by the City Council via ordinance. Ordinance No. 2014-30 annexes 3.14 acres located at 2701 S. Woody Mountain Road into the City of Flagstaff. Prior to the second read of Ordinance No. 2014-30 the City Council will approve an Annexation and Development Agreement for the Aspen Heights project. A copy of the draft development agreement is attached for review.

Community benefits and considerations related to this request are addressed in more detail in the attached Planning and Zoning Commission Staff Report, dated September 12, 2014. The existing City of Flagstaff boundary bisects the current parcel limiting the development of the site. The majority of the existing parcel is located within the City of Flagstaff boundaries and the annexation will result in a correction of the City limits to allow for appropriate development of the subject site. The proposed development will require a proportional- share contribution to a future traffic signal at the intersection of Route 66 and S. Woody Mountain Road per the results of the accepted traffic impact analysis. In addition, approximately 5500 linear feet of sewer line will need to be upgraded in conjunction with the proposed development. The Applicant has indicated their desire to participate in the recapture program. The proposed development plans to off-set recreation impacts associated with the project by providing substantial recreation improvements on site in compliance with the City of Flagstaff Zoning Code.

The Applicant held a neighborhood meeting on Thursday, March 27, 2014 at 5:30 pm. The Applicant received two phone calls from their meeting notice requesting information about the project. Seven people attended the meeting and had questions in regards to the case. None of the attendees expressed opposition to the Annexation or the Zoning Map Amendment. Staff has not received any other comments in regards to either the annexation or the Zoning Map Amendment.

The Planning and Zoning Commission conducted a public hearing on September 24, 2014 at 4 p.m. Three individuals spoke in regards to this case. Two addressed concerns in regards to dark sky related issues and the impacts of outdoor lighting. One individual asked for additional information in regards to the provision of affordable housing.

- (Recommended Action): The City Council may approve the Annexation as recommended by the Planning and Zoning Commission and staff by reading and adopting Ordinance No. 2014-30.
- The City Council may approve the Annexation with conditions of approval.
- The City Council may deny the Annexation.

**Attachments:** [P&Z Commission Staff Report](#)  
[Annexation Application](#)  
[Annexation Legal Description](#)  
[Zoning Map with City limits](#)  
[Annexation Public Hearing Notices](#)  
[P&Z Commission Draft Minutes](#)  
[Ord. 2014-30](#)



**PLANNING AND DEVELOPMENT SERVICES DIVISION**  
**ANNEXATION REPORT**

**PUBLIC HEARING**  
**PANX 14-0001**

**DATE:** September 12, 2014  
**MEETING DATE:** September 24, 2014  
**REPORT BY:** Tiffany Antol

**REQUEST:**

An annexation request of approximately 3.14 acres located at 2701 S. Woody Mountain Road. The property is identified as a portion of Coconino County Assessor's Parcel Number 112-01-019 which is approximately 36.94 acres. This annexation request is the first part of a two-part request. The second part of the request is a Concept Zoning Map Amendment.

**STAFF RECOMMENDATION:**

Staff recommends the Planning and Zoning Commission forward the annexation request to the City Council with a recommendation for approval.

**PRESENT LAND USE:**

The subject site consists of undeveloped land in the General (G) Zone under Coconino County jurisdiction.

**PROPOSED LAND USE:**

If this annexation is approved, the property will be designated with Rural Residential (RR) zoning. The accompanying zoning map amendment will change the zoning on the property from the Rural Residential (RR) Zone to the Medium Density Residential (MR) and Highway Commercial (HC) Zones for the development of a proposed student housing project and undetermined commercial uses.

**NEIGHBORHOOD DEVELOPMENT:**

North: Vacant land owned by the City of Flagstaff in the Rural Residential (RR) Zone; Professional River Outfitters in the General Commercial (CG-10,000) Zone under Coconino County jurisdiction.  
East: Woody Mountain Campground & RV Park in the Rural Residential (RR) Zone and the Planned Community (PC) Zone under Coconino County jurisdiction; Presidio in the Pines in the High Density Residential (HR) Zone.  
South: Vacant Land in the Rural Residential (RR) Zone.  
West: Vacant Land in the Rural Residential (RR) Zone.

**REQUIRED FINDINGS:**

The Commission shall find that the requested annexation complies with Section 9-471 of the Arizona Revised Statutes; the applicable goals and policies set forth in the City's General Plan, "Flagstaff Area Regional Land Use and Transportation Plan"; and Division 10-20.90 of the *Flagstaff Zoning Code*.

**STAFF REVIEW:**

**INTRODUCTION/BACKGROUND:**

A request by Aspen Heights to annex approximately 3.14 acres at the intersection of East Route 66 and Woody Mountain Road. The area subject to the annexation is a portion of parcel 112-01-019. This parcel is currently vacant and was at one time heavily forested before the Woody Fire in 2006. The parcel is located within the Resource Protection Overlay (RPO) Zone and still maintains forest resources towards the southern portion of the property. The

parcel is located within the Urban Service Boundary and this small portion of the overall parcel is within County jurisdiction.

The current application was filed prior to the adoption of the *Flagstaff Regional Plan 2030 (FRP 2030)* and is therefore being reviewed against the policies of the *Flagstaff Area Regional Land Use and Transportation Plan (RLUTP)*. For comparison purposes, policies from both plans are identified and discussed. The *RLUTP* designates this parcel as Mixed-Use. This land use category requires an average density of seven dwelling units per acre. The Mixed-Use category may have an emphasis on either residential or non-residential. The objective of this classification is to mix land uses by providing housing, shopping, and employment. However, this category does not preclude single use developments. The *FRP 2030* designates this parcel as Future Urban within an Urban Activity Center. The density range required for residential mixed-use is eight dwelling units per acre and a minimum floor area ratio of 1.0 or greater.

This annexation is the first of a two-step process. The second being a Concept Zoning Map Amendment request to zone the parcel to the MR, Medium Density Residential Zone (33.33 acres) for a student housing development and the HC, Highway Commercial Zone (3.60 acres) for future commercial development. The Zoning Map Amendment application is being processed concurrently with this application but will not become effective until after the annexation has been completed. A full Zoning Map Amendment policy analysis can be found in that staff report.

#### **ARIZONA STATE STATUTE COMPLIANCE:**

State statutes only allow the City to adopt a zoning classification that permits densities and intensities no greater than those permitted by the County immediately before the annexation. The current county zoning is G, General that requires ten-acre minimum lot size. The closest city zoning district is the RR, Rural Residential District, which provides for one dwelling unit per acre based on the single-family option.

A Zoning Map Amendment application to zone the parcel to MR, Medium Density Residential, and HC Highway Commercial will be necessary to accommodate the proposed development. The Zoning Map Amendment application will be considered subsequent to review of the annexation application.

#### **REGIONAL LAND USE AND TRANSPORTATION PLAN CONFORMANCE:**

##### **Policy/Analysis**

All proposed annexations shall be evaluated as to whether the application is consistent with the policies of the General Plan. The proposed annexation should not be detrimental to the majority of the persons or property in the surrounding area or the community in general. The City's basic position regarding annexation is that the annexation must demonstrate a favorable benefit to the taxpayers of the City.

The General Plan further provides, "The Regional Plan establishes an Urban Growth Boundary that identifies lands that are currently most appropriate for compact, urban development. The lands shall be planned for the full range of urban services and are appropriate for annexation under appropriate conditions. By directing growth to well-defined, contiguous areas, development is more efficiently served; open lands and natural resources can be better protected; public facilities and services can be delivered more effectively; neighborhoods can provide a greater range of options for housing types." The following policies are considered by staff to be the most pertinent to the annexation:

##### **RLUTP Policy**

**LU1.6 - Require Urban Development to Locate within City Boundaries:** In order to ensure that all urban development can be provided with adequate public facilities and services, all urban land uses shall be located within the Urban Growth boundary and within the City's corporate boundary limits. The Regional Plan encourages urban land uses to locate only within incorporated areas in order to obtain City services, utilities, and fire protection. The



City shall consider the annexation of land into the city limits when the annexation of such property is consistent with the goals and policies of the Regional Land Use and Transportation Plan.

### **FRP 2030**

**LU.7.2 - Require unincorporated properties to be annexed prior to the provision of City services, or that a pre-annexation agreement is executed when deemed appropriate.**

### **Summary of Regional Plan & Annexation Compliance**

This parcel is located within the Urban Growth Boundary. The proposed annexation is consistent with the goals and policies of the Regional Land Use and Transportation Plan and furthermore the application complies with all the requirements set forth in the Arizona Revised Statutes related to annexations.

### **PUBLIC FACILITIES AND SERVICE IMPACT ANALYSIS:**

#### **Traffic/Access/Pedestrian/Bicycle Impact:**

The site is bounded on the north by Route 66, on the east by Woody Mountain Road, and on the south by Presidio Drive. Vehicular access to the site is provided from all three roadways. Proposed road and edge improvements include the dedication of additional right-of-way for Woody Mountain Road. Improvements within the right-of-way include: new curb, gutter, FUTS/sidewalk, and parkway along Route 66, Woody Mountain Road, and Presidio Drive. A southbound right turn lane into both entrances on Woody Mountain Road, and a northbound two-way left turn lane at the main entrance on Woody Mountain Road will be required for the proposed student housing project.

A Traffic Impact Analysis was prepared for the developer by CivTech, Inc. to demonstrate the anticipated traffic volumes generated from the proposed development. The City Traffic Engineer reviewed the concept plan and the TIA and subsequently accepted the results subject to the following conditions:

1. Vehicular and pedestrian cross access shall be provided between the residential land use and the commercial land use. The applicant can decide the location of the cross access, but the access does need to be provided with future site planning submittals. No TIA analysis needs to be done.
2. The Signal Warrant Analysis for the intersection of Route 66 and Woody Mountain is not approved, but ADOT's review conditions are attached and the re-submittal of the warrant analysis is not expected to change the proportional share analysis, nor recommend that a signal be installed upon project opening. Under those two qualifying statements, the following Condition of Approval #3 is valid. If either of these two qualifying conditions change, the following condition will need to be re-evaluated.
3. Future ROW needs and proportional share for the intersection of Route 66 and Woody Mountain are required. A planning level signal layout should be provided with construction plans to help determine the ROW dedication requirements. The developer's proportional share contribution for this future signal need is documented in the attached table. The planning level estimate for a future signal in the Flagstaff Region is \$400,000. The calculated proportional share based on the percent of project traffic in the intersection of Woody Mountain Road and Route 66 is 25.7%, or \$102,805. The timing of this proportional share contribution shall be outlined in the Development Agreement.

ADOT has also reviewed the TIA and provided comments similar to the City Traffic Engineer. These comments are attached to this report.

The project site is not currently serviced by transit. This area is identified in the Flagstaff Area Regional Land Use and Transportation Plan for future service. The applicant has discussed the possibility of extending service to the subject site in partnership with the local transit authority but no official agreement is in place to service the property at this time.

Pedestrian and bicycle access to the subject property is limited. There are currently no sidewalks along Route 66 or Woody Mountain Road in the vicinity of this project. Bike lanes are provided along Woody Mountain Road up to Woodlands Village Boulevard beyond which a striped shoulder exists continuing out to the subject property. It will be possible for both pedestrians and bicycles to gain access through the Presidio in the Pines into Boulder Pointe and beyond, but the roadways within Presidio in the Pines have not been fully constructed.

#### **Water System Analysis:**

A Water and Sewer System Analysis was prepared on behalf of the City. The main source of water for this site is a 12-inch diameter Zone A+ waterline located in Woody Mountain Road. This line extends from Route 66 to the Presidio in the Pines subdivision along the eastern boundary of the subject property within existing right-of-way. The existing Zone A+ waterlines are fed by the Railroad (RR) Springs tank and a booster pump located in Railroad Springs Subdivision.

Three connections will need to be made to the existing 12-inch main to provide water for the proposed development on the subject property. A looped water system will be required for the development of this site. The proposed water main extensions that will serve as the backbone infrastructure for the proposed development are made up of 8-inch waterlines. Water line stub outs for future connectivity to adjoining parcels on the west side of the subject property will need to be provided as well.

#### **Sewer System Analysis:**

The Water and Sewer System Analysis identified two connection points to the City sewer system. The nearest sewer lines are located along Woody Mountain road. There are two 8-inch diameter PVC sewer lines located along the southeastern border of the subject property. The Rio De Flag Wastewater Treatment Plant, which is currently operating below maximum capacity, will treat all sewage collected in these lines. Connection to the existing 10-inch diameter sewer line in West Highway 66 is proposed for development of the subject site. The existing 10-inch trunk line does not have sufficient capacity to convey all anticipated sewage flows generated by this site. The proposed development will be required to extend public sewer lines adequate to carry all anticipated contributory flows generated by the future residents of this project, as well as, any potential flows from upstream sources. Approximately 5,500 feet of existing sewer line will need to be upsized to handle the additional flow created by this project.

#### **Stormwater:**

The development of the subject project is proposing on-site mitigation in lieu of a Drainage Impact Analysis. The proposed stormwater management design will not increase the volume of pre-development flows off-site. LID requirements will be met per City standards. The Stormwater Manager has provided preliminary acceptance of the proposed on-site mitigation and LID methods.

#### **Parks and Recreation:**

The City of Flagstaff Parks and Recreation Organizational Master Plan and the Flagstaff Area Regional Land Use and Transportation plan identifies a future community scale park (20+ acres) on or near the subject property. The current Flagstaff Regional Plan 2030 does not identify a park at this location. While zoning regulations do require some type of open space areas, they do not require the dedication of land and facilities for the development of public parks.

The Zoning Code requires residential developments with 50 or more dwelling units to provide a minimum of five percent of the site in civic spaces that are either privately held and open to the public or publicly owned and set aside as a civic space. The proposed student housing development would require approximately a minimum of 1.5 acres as civic space. This space is shown as passive/active green space in the center of the project that provides a trail system with recreational facilities. This system would have to be made available to the public as well as the residents of the

project to meet this requirement. Additionally, the Zoning Code requires that a minimum of 15% of the site be maintained as open space which is roughly 4.5 acres of the proposed student housing project site. Resource preservation such as floodplains, slopes, and forests may be used to satisfy this standard and includes active and passive recreation uses, landscape areas, and community gardens.

In order to off-set the parks and recreation demands of the students living on-site, active and passive recreation amenities have been incorporated into both the civic and open space requirements. Those amenities include a clubhouse, pool/spa recreation area, sports courts and a walking trail with exercise stations, BBQ grills, picnic tables and a pavilion to be determined through site plan review. The developer will also be required to provide a portion of the Flagstaff Urban Trail System along Woody Mountain Road as part of the roadway edge improvements. This will be a significant improvement to the Woody Mountain Road corridor for alternative modes.

### **Schools:**

The proposed development of the subject site is not anticipated to affect the local school district. The primary intended occupants are Northern Arizona University Students. The Arizona State Legislature does not currently enable units of local government to assess school impact mitigation through development processes.

### **Fire Protection:**

According to Fire Department staff, the site is within the desired four-minute response time from Fire Station No. 1, located at 1972 S. Thompson Drive.

### **ZONING REQUIREMENTS FOR PROPOSED ZONING:**

As was noted above, if annexed, the property will need to be brought into the City as a zone similar to the existing County zoning. In this case, the City's RR, Rural Residential Zone, best matches the county G, General Zone. Arizona statute requires that once annexed, the zoning is to remain in place for a period of 30 days. As a result, an ordinance modifying the zoning code must include an effective date 30 plus days after the annexation ordinance becomes effective. The Zoning Map Amendment application and the staff report have been provided in conjunction with this application and will explain the proposed MR, Medium Density Residential Zone and HC, Highway Commercial Zone.

### **OTHER REQUIREMENTS:**

#### **Citizen Participation**

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with requests for annexation. In accordance with State statute, notice of the public hearing was provided by placing an ad in the Daily Sun, posting notices on the property, and mailing a notice to all property owners within 300 feet of the site. The notices were also provided to the County Recorder, County Assessor, County Community Development Department and the Chair of the Board of Supervisors.

The applicant held a neighborhood meeting on Thursday, March 27, 2014 at 5:30 pm. The applicants received two phone calls from their meeting notice requesting information about the project. Seven people attended the meeting and had questions in regards to the case. None of the attendees expressed opposition to the Annexation or Zoning Map Amendment. Staff has not received any other comments in regards to this annexation.

### **RECOMMENDATION:**

Staff recommends that the Commission forward the annexation request to the City Council with a recommendation of approval.

**ATTACHMENTS:**

- Application and narrative from applicant
- Annexation Legal Description and Map
- Public Hearing Legal Advertisements
- Traffic Impact Analysis Acceptance Memo (included in PREZ 14-004 packet)
- Citizen Participation Plan (included in PREZ 14-004 packet)
- Draft Development Agreement (included in PREZ 14-004 packet)
- Concept Plan Packet: (included in PREZ 14-004 packet)
  - Conceptual Site Plan
  - Concept Utility Plan
  - Natural Resource Protection Plan
  - Conceptual Landscape Plan
  - Annexation Map
  - Residential Building Elevations Examples



# City of Flagstaff

## Community Development Division

211 W. Aspen Ave  
Flagstaff, AZ 86001  
www.flagstaff.az.gov

P: (928) 213-2618  
F: (928) 779-7684

ANX

Date Received MAR 11 2014		<b>Application for Annexation</b>		File Number DEV 13-007
Property Owner(s) Aspen Heights	Title	Phone 512-970-1317	Email cvatterott@myaspenheights.com	
Mailing Address 1301 S. Capital of Texas Hwy Suite B-201		City, State, Zip Austin, TX 78746		
Applicant mogollon Engineering	Title	Phone 214-0214	Email mogollon99@aol.com	
Mailing Address 411 W. Santa Fe		City, State, Zip Flagstaff, AZ 86001		
Project Representative Kent Hotsenpiller	Title	Phone	Email	
Mailing Address		City, State, Zip		

Site Address 2701 S. Woody Mountain Rd	Parcel number(s) 112-01-019	Subdivision, Tract & Lot Number n/a	
Existing Zoning District RR	Existing Regional Plan Land Use Category mixed use		
Proposed Zoning District MR & HC	Proposed Regional Plan Land Use Category		
Present Use vacant	Proposed Use student housing		
Summarize Reason for Request (Attach additional sheets if necessary): see attached			
Note: Indicate how the annexation will not be detrimental to the majority of persons or properties in the surrounding area, or to the community in general. If a modification to the Regional Land Use and Transportation Plan or a Zoning Map Amendment is requested, clearly state the reasons for such changes (a separate application is required).			
Property Owner Signature 	Date 3/11/14	Applicant Signature Kent Hotsenpiller	Date 3/10/14
<b>For City Use</b>			
Date Filed:	Fee Receipt Number:	Amount:	Date:
Type of Request:	<input type="checkbox"/> Annexation <input type="checkbox"/> Continued		
Publication and Posting Date(s):		File Number:	
Action by Planning and Zoning Commission:		Action by City Council	
Hearing Date:		Hearing Date:	
<input type="checkbox"/> Approved <input type="checkbox"/> Continued		<input type="checkbox"/> Approved <input type="checkbox"/> Continued	
<input type="checkbox"/> Denied		<input type="checkbox"/> Denied	

Staff Assignments	Planning Jeffery	Engineering Deena	Fire Kent	Stormwater Kyla	Utilities/PW Jim
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Revised 9/28/11

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PSPR20140005

## Application for Annexation

Information Required pursuant to the Application for Annexation, Information Required, Section 2:

### 2. An applicant must state the reason for request and why request should be granted.

#### 2.1 Reason for the Request

This Application for Annexation has been filed by Aspen Heights in connection with its plans to develop a 37-acre parcel at the corner of Woody Mountain Road and Route 66 as a mixed-use development with MR, Medium Density Residential, and HC, Highway Commercial zoning. Of the total acreage, 3.14 acres is located outside the City's limits and comprises the majority of the 3.6-acre commercial portion of the property. The annexation will permit the development of the property under the policies regarding Mixed-Use Development articulated in the Regional Land Use and Transportation Plan for the West Side of Flagstaff in the area near Highway 66 and Woody Mountain Road.<sup>1</sup>

#### 2.2 Why the Request Should be Granted

The request should be granted because it will help further the following RLUTP policies:

**Policy LU1.5—Provide for New City Mixed-Use Neighborhoods.** The Regional Plan designates new development areas within the Urban Growth Boundary for development as mixed-use neighborhoods. The criteria for these areas includes average densities, a mix of mutually supportive and integrated residential and non-residential land uses, and a network of interconnected streets, and pedestrian and bicycle connections. Designated areas include Canyon del Rio and the West Side Area, and may include other future areas identified as Planning Reserve Areas. Additionally, existing older neighborhoods, such as Southside, Sunnyside, and parts of downtown, may be suitable for limited and sensitively designed mixed-use development.

#### **Policy LU1.6—Require Urban Development to Locate within City Boundaries**

In order to ensure that all urban development can be provided with adequate public facilities and services, it is the policy of this Regional Plan that all urban land uses shall be located within the Urban Growth Boundary, within the city's corporate boundary limits. The Regional Plan encourages urban land uses to locate only within incorporated areas in order to obtain City services, utilities, and fire protection. The City shall consider the annexation of land into the city limits when the annexation of such property is consistent with the goals and policies of the Regional Land Use and Transportation Plan.

There are no natural or other demarcations between the portion of the parcel (APN 112-01-019) that lies within the City and that which is part of unincorporated lands in the County. The annexation of the 3.14 acres sought by the applicant for inclusion within the City's boundaries will

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<sup>1</sup> RLUTP, Underlying Principles, 1-18

permit development on the entire parcel to proceed through the processes of a single jurisdiction, providing for greater efficiency and coherence in planning. Inclusion of the majority of the 3.6 acres designated for commercial development will allow the parcel as a whole to meet the Mixed-Use Development goals of the RLUTP for development in this area.

If the annexation is successful, the applicant will proceed with its application for a Zoning Map amendment and approval of its proposed project, which will provide 224 cottage units of student housing with 714 rooms for rent in the Medium Density Residential portion of the parcel and 3.6 acres of retail trade or general services uses on the Highway Commercial portion of the parcel. The proposed development will provide a community benefit by promoting the efficient use of land in an area presently zoned for 1-acre single-family lots, which might provide 36 to 37 dwellings, through approval of a proposed Zoning Map amendment to permit a higher density of uses as authorized by the RLUTP for this area.

The project will improve Woody Mountain Road and provide a new public roadway along the south boundary for connectivity to the west. Additional requirements of the City and the Arizona Department of Transportation with regard to traffic impacts will also be met. Extensive construction will be undertaken to extend water and sewer mains to a considerable distance to the east in two places.

## EXHIBIT A

The following is a description of a parcel of land, being portions of that parcel described in Instrument 3546194, Coconino County Records, situate in section 19, Township 21 North, Range 7 East, G. & S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

Commence at the northwest corner of said parcel, which is a point on the north boundary of the "Presidio West Tract" as described in Instrument 3229602 and is a point on the south Right-of-Way line of U.S. Highway 66; thence South  $85^{\circ}15'51''$  East along said north boundary a distance of 183.66 feet to the Point of Beginning;

Thence continue South  $85^{\circ}15'51''$  East along said north boundary a distance of 599.30 feet to the northeast corner of Instrument 3546194 which is a point on the centerline of Woody Mountain Road;

Thence South  $00^{\circ}18'32''$  East along said centerline a distance of 195.77 feet;

Thence South  $88^{\circ}04'25''$  West a distance of 589.73 feet;

Thence North  $01^{\circ}55'35''$  West a distance of 265.22 feet to the True Point of Beginning;

Said Parcel contains 136,639 sq. ft. or 3.14 acres of land more or less as shown on the attached Exhibit B which by this reference is made a part hereof.



Expire: 2/10/15

Annex

City File Number \_\_\_\_\_

Descriptive Title \_\_\_\_\_

**Mogollon** Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

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# ANNEXATION MAP

A PORTION OF

INSTRUMENT 3546194

COCONINO COUNTY RECORDS LOCATED IN  
SECTION 19, T 21 N, R 7 E, FLAGSTAFF,  
COCONINO COUNTY, ARIZONA

U.S. HIGHWAY 66

N85°15'51"W 782.96'

South R.O.W. Hwy 66  
599.30'

Found 1/2" Rebar  
Bent

NE  
corner  
Ins. 3546194

WOODY MOUNTAIN  
ROAD

N00°18'32"W  
195.77'

Future  
Right-of-Way

County

City

Annexed Area  
136,639 sq.ft.  
3.14 acres

N88°04'25"E  
589.73'

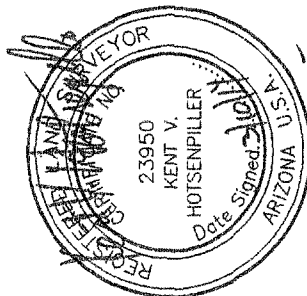
INSTRUMENT 3546194

CORPORATE  
LIMITS

S01°55'35"E  
265.22'

NW  
corner  
Ins. 3546194

Found 1/2" Rebar w/  
Plastic Cap Illegible  
Melted



Expires on 3/31/15

Survey was performed in March of 2014.  
City Limit boundary as determined by COF  
GIS. Information shown hereon is true and  
correct to the best of my knowledge.

SCALE: 1"=100'

EXHIBIT B  
ANNEXATION  
MAP

**Mogollon**  
ENGINEERING  
& SURVEYING

411 W. Santa Fe Avenue, Flagstaff, Az. 86001  
P.O. Box 1562, Flagstaff, Az. 86002  
Phone: 928-214-0214 • Fax: 928-918-0015

HORIZONTAL SCALE: 1"=100'

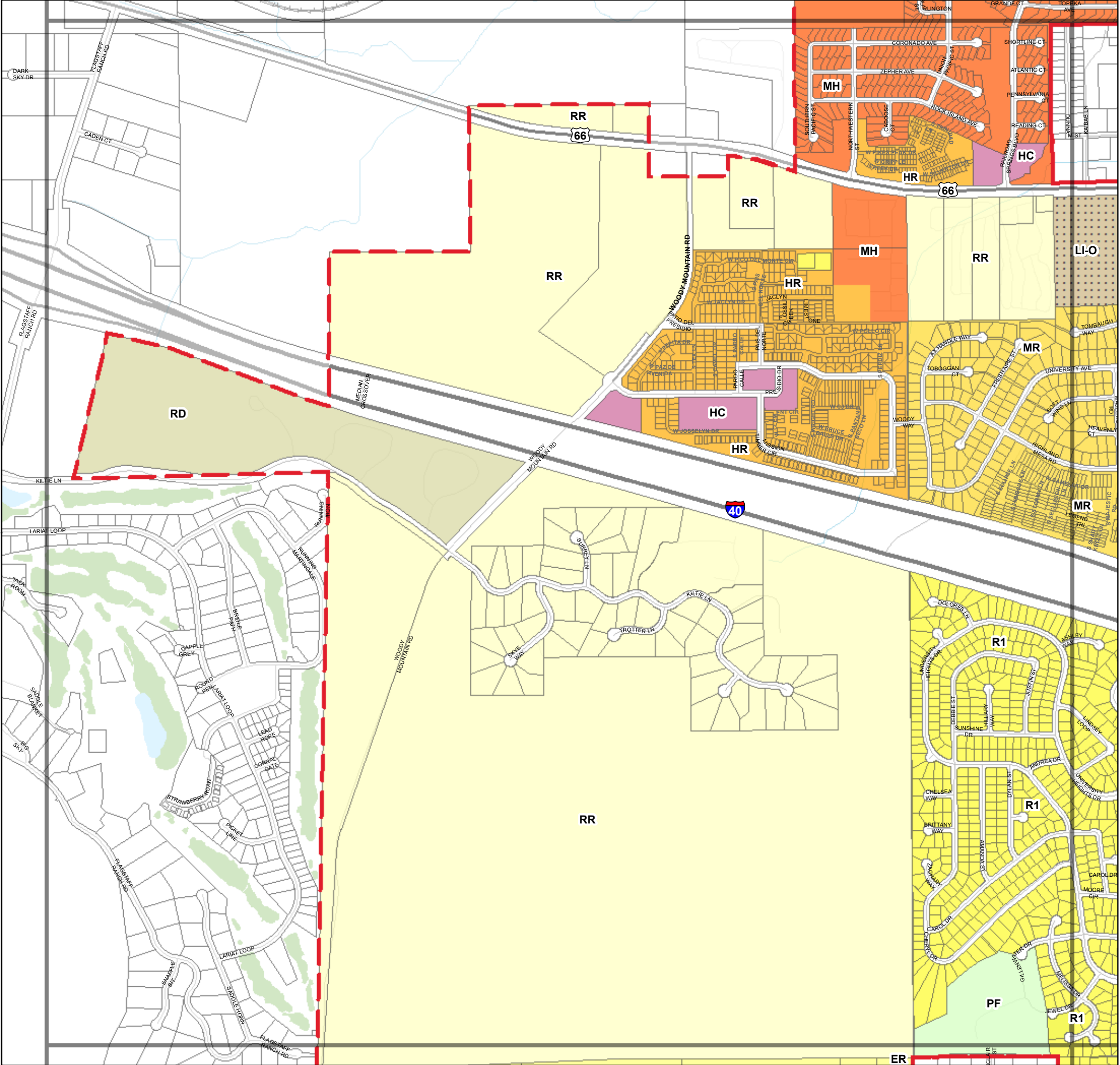
VERTICAL SCALE:

DESIGNED/DRAWN BY: kvh

PROJECT NO. 12992

DATE: 3/10/14

# City of Flagstaff Zoning Map 14



**Residential Zones:**

- Rural Residential (RR)
- Estate Residential (ER)
- Single-family Residential (R1)
- Single-family Residential Neighborhood (R1N)
- Medium Density Residential (MR)
- High Density Residential (HR)
- Manufactured Housing (MH)

**Commercial Zones:**

- Central Business (CB)
- Highway Commercial (HC)
- Commercial Service (CS)
- Community Commercial (CC)
- Suburban Commercial (SC)

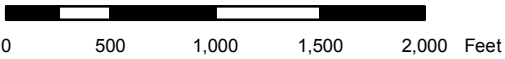
**Industrial Zones:**

- Research and Development (RD)
- Light Industrial (LI)
- Light Industrial Open (LI-O)
- Heavy Industrial (HI)
- Heavy Industrial Open (HI-O)

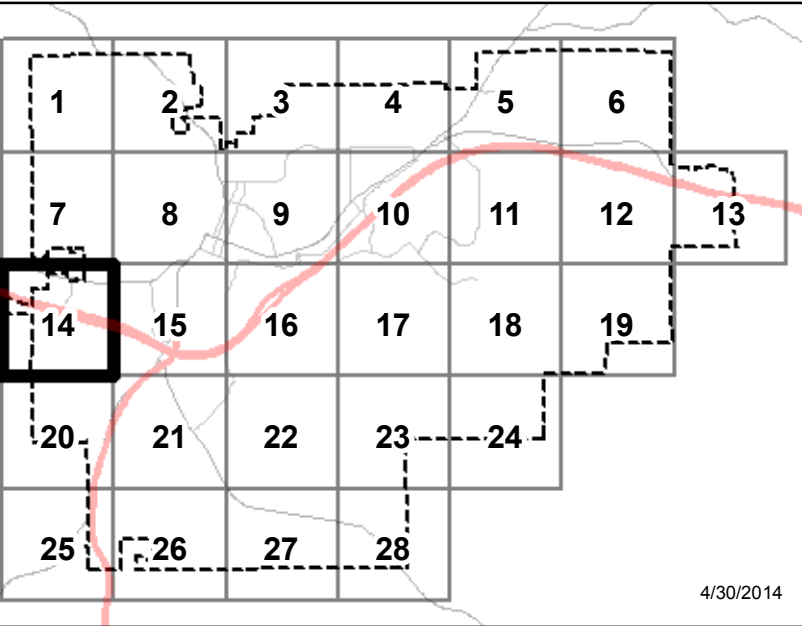
**Resource and Open Space:**

- Public Facility (PF)
- Public Lands Forest (PLF)
- Open Space (OS)

- Airport Overlay Zone
- Downtown Overlay Zone
- Townsite Overlay Zone
- Landmark Overlay Zone
- Regulating Plan Boundary
- City Limits
- Parcels



This map is known as the "City of Flagstaff Official Zoning Map" or the "City of Flagstaff Official Regulating Plan," and is intended to implement the City of Flagstaff Zoning Code per Ordinance 2011-20 adopted on 11/01/2011 and all subsequent amendments. These maps are based on the most accurate graphic information available at the time they were produced. The City of Flagstaff furnishes these maps "as is" and assumes no responsibility for their accuracy. All zoning information should be verified by legal description whenever possible.



# NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that the Flagstaff Planning and Zoning Commission will hold a public hearing on Wednesday, September 24, 2014 at 4:00 p.m. and the City Council will hold a Public Hearing on Tuesday, October 21, 2014, at 6:00 p.m. to consider the following:

## A. Explanation of Matters to be Considered:

1. A proposed annexation of approximately 3.14 acres of land to the City of Flagstaff as described in Part B below. The annexation is requested in order to incorporate a portion of an existing parcel of land into the City limit.

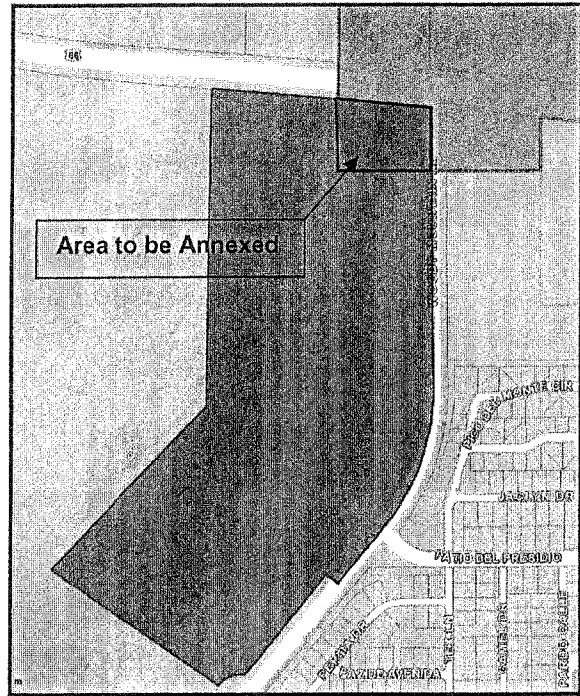
## B. General Description of the Affected Area:

Approximately 3.14 acres located at the northeast corner of Route 66 and Woody Mountain Road, a portion of Coconino County Assessor's Parcel Number 112-01-019, located in the NE 1/4 SE 1/4 Section 19, T21M, R7E, of the G&SRM, City of Flagstaff, Coconino County, Arizona, as shown on the adjacent map.

Interested parties may file comments in writing regarding the proposed annexation and rezoning or may appear and be heard at the hearing date set forth above. Maps and information regarding the proposed annexation and rezoning are available at the City of Flagstaff, Planning and Development Services Division, 211 West Aspen Avenue.

Unless otherwise posted, all Planning and Zoning Commission meetings are held in the Council Conference Room of City Hall, 211 West Aspen Avenue, Flagstaff, Arizona. All City Council meetings are held in the Council Chambers of City Hall, 211 West Aspen Avenue, Flagstaff, Arizona.

## PROPOSED ANNEXATION MAP



**ADDRESS:** 2701 Woody Mountain Road  
**APN:** 112-01-019  
**ACRES:** Approximately 3.14 Acres  
City of Flagstaff, Coconino County



## For further information, please contact:

Tiffany Antol  
Planning Development Manager  
Planning & Development Services Div.  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

928-213-2608  
Email: tantol@flagstaffaz.gov



Mail: September 5, 2014



# NOTICE OF PUBLIC HEARINGS

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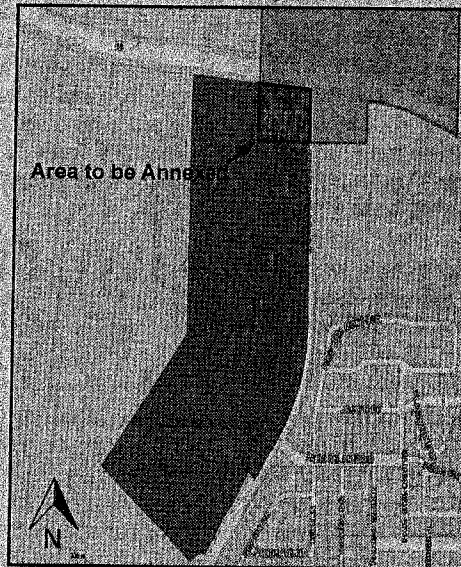
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## **PROPOSED ANNEXATION MAP**



**ADDRESS:** 2701 Woody Mountain Road

**APN:** 112-01-019

**ACRES:** Approximately 3.14 Acres

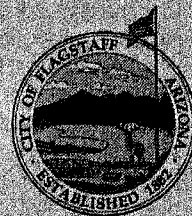
## **FOR FURTHER INFORMATION, PLEASE CONTACT:**

Tiffany Antol  
Planning Development Manager  
Planning & Development Services Div.  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

928-213-2608

Email: [tantol@flagstaffaz.gov](mailto:tantol@flagstaffaz.gov)

Publish: September 7, 2014





# Minutes- Draft

City of Flagstaff

## PLANNING & ZONING COMMISSION

4:00 PM– Wednesday, September 24, 2014

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City Hall, Council Chambers, 211 W. Aspen Avenue



In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact Tammy Bishop at (928) 213-2611 (or 774-5281 TDD). Notification at least 48 hours in advance will enable the City to make reasonable arrangements.

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the Planning and Zoning Commission and to the general public that, at this meeting, the Planning and Zoning Commission may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

CALL TO ORDER [Chairman Dorsett called the meeting to order at 4:00 p.m.](#)

COMMISSION MEMBERS: Stephen Dorsett, Chairman Paul W. Turner  
Present: Justin Ramsey, Vice Chairman Steve Jackson  
Paul Moore  
Tina Pfeiffer  
Absent: David Carpenter

CITY STAFF: Brian Kulina, Planning Development Manager  
Tiffany Antol, Planning Development Manager  
Mark Sawyers, Staff Liaison  
Becky Cardiff, Recording Secretary

### I. GENERAL BUSINESS

#### A. PUBLIC COMMENT

*(At this time, any member of the public may address the Commission on any subject within their jurisdiction that is not scheduled before the Commission on that day. Due to Open Meeting Laws, the Commission cannot discuss or act on items presented during this portion of the agenda. To address the Commission on an item that is on the agenda, please wait for the Chair to call for Public Comment at the time the item is heard.)*

[None](#)

#### B. APPROVAL OF MINUTES

##### 1) Regular meeting of August 27, 2014.

[Motion to approve the minutes of the regular meeting of August 27, 2014, Moved by Commissioner Turner; seconded by Commissioner Ramsey. Motion carried unanimously.](#)

## II. OTHER BUSINESS

### PINNACLE PINES

Address: 800 E Sterling Lane  
Assessor's Parcel Number: 105-20-117  
Property Owner: Pinnacle 146 LLC  
Applicant: Mogollon Engineering  
Application Number: PPPL 2014-0005  
City Staff: Brian Kulina  
Action Sought: Preliminary Plat Request

A Preliminary Plat request from Mogollon Engineering & Surveying, Inc., on behalf of Pinnacle 146 LLC, for a development of approximately 18.59 acres into 106 single-family subdivision lots located at 800 E. Sterling Lane, within the Medium Density Residential (MR) zone.

Mr. Kulina gave a PowerPoint presentation on the proposed project and answered questions from Commissioners.

Kristen Smith, Flagstaff Fire Dept, was present and answered questions from Commissioners.

Reid Miller, Traffic Engineering, was present and answered questions from Commissioners.

Kent Hotsenpillar, Engineer representing the applicant, answered questions from Commissioners.

Sue Ellen, resident, discussed the potential access to the proposed project and the potential effect it could have on the value of her property.

Doug Hare, owner representative, answered questions from Commissioners

Motion to forward to City Council for approval Preliminary Plat PPPL 2014-0005 with additional mitigation of the impact of Silver Lane to adjoining properties Moved by Chairman Dorsett; seconded by Commissioner Ramsey. Discussion was held. Motion carried 5 to 1 with Commissioner Jackson dissenting.

## III. PUBLIC HEARING

### A. ASPEN HEIGHTS

Address: 2701 S Woody Mountain Road  
Assessor's Parcel Number: 112-01-019  
Property Owner: Landmarc Capital & Investment Co.  
Applicant: Aspen Heights  
Application Number: PANX 14-0001  
City Staff: Tiffany Antol  
Action Sought: Annexation Request

An annexation request of approximately 3.14 acres located at 2701 S. Woody Mountain Road. The property is identified as a portion of Coconino County Assessor's Parcel Number 112-01-019. This annexation request is the first part of a two-part request. The second part of the request is a Zoning Map Amendment.

## B. ASPEN HEIGHTS

Address: 2701 S Woody Mountain Road  
Assessor's Parcel Number: 112-01-019  
Property Owner: Landmarc Capital & Investment Co.  
Applicant: Aspen Heights  
Application Number: PREZ 14-0004  
City Staff: Tiffany Antol  
Action Sought: Zoning Map Amendment

A Zoning Map Amendment request to rezone approximately 33.33 acres from Rural Residential (RR) to Medium Density Residential (MR) and approximately 3.60 acres from Rural Residential (RR) to Highway Commercial (HC).

Ms. Antol gave a PowerPoint presentation on the proposed project Aspen Heights including information on both the Annexation and Zoning Map Amendment and answered questions from Commissioners.

Reid Miller, Traffic Engineer, answered questions from Commissioners

Rick Barrett, City Engineer, answered questions from Commissioners

Ms. Antol answered questions from Commissioners

Kent Hotsenpillar, Engineer representing the applicant, answered questions from Commissioners

Charlie Vatterott, Executive VP of Development, gave a PowerPoint on the proposed project.

William Ramsey, Regional Operations Manager representing the applicant, gave a PowerPoint presentation on the operation of the proposed project.

Dana Kjellgren, legal counsel representing the applicant, answered questions from Commissioners

Erika Mazza, NAIPTA, answered questions about possible transit from the proposed project.

**Motion to open the public hearing Moved by Commissioner Turner; seconded by Commissioner Moore. Motion carried.**

Public Comment was given as follows:

Elizabeth Betroff, resident, requested information on affordable housing

Ms. Antol and Ms. Kjellgren addressed the question about affordable housing

Chris Luginbuhl, astronomer, expressed concerns about lighting that the proposed project could produce.

Lance Diskan, representing the Dark Skies Coalition/resident, also expressed concerns about the lighting that the proposed project would produce.

Ms. Kjellgren addressed concerns that were brought up during public comment

A written comment was submitted as follows:

"Moran Henn, representing Friends of Flagstaff's Future, F3 is not in opposition or in support of this project. We do think however that approving it would be pushing the cart before the horse. The city and county are in the process of developing guidelines for dormitory style off campus student housing. The community is going to weigh in on this issue on October 27 at a meeting led by Mayor Nabours and Supervisor Archuleta. We only ask you give the community time. Given such strong

community engagement in the previous off campus housing issue we feel it would be best to not approve any such developments till after October 27. Thank you"

Motion to close the public hearing Moved by Commissioner Turner; seconded by Commissioner Jackson. Motion carried.

Motion to forward an approval to City Council of Annexation PANX 14-0001 Moved by Commissioner Turner; seconded by Commissioner Jackson. Motion carried unanimously.

Motion to forward for approval to City Council of PREZ 14-0004 with Staff conditions and the condition that Council seriously consider reducing the lumen counts currently allowed in the zone. Moved by Commissioner Moore. Motion failed with no second.

Motion to forward for approval to City Council of PREZ 14-0004 with proposed Staff Conditions Moved by Commissioner Turner; seconded by Commissioner Pfeiffer. Discussion was held.

Motion to amend the motion to include the condition that the applicant will work with the dark skies community to minimize the impact on the Observatory and to come up with conditions for the Development Agreement to achieve those results Moved by Chairman Dorsett; Seconded by Commissioner Pfeiffer. Motion carried and additional condition is added to the original motion.

Motion to forward to City Council for approval of PREZ 14-0004 with proposed Staff Conditions and the condition that the applicant will work with the dark skies community to minimize the impact on the Observatory and to come up with conditions for the Development Agreement to achieve those results. Moved by Chairman Dorsett; Seconded by Commissioner Pfeiffer. Motion carried unanimously.

#### IV. MISCELLANEOUS ITEMS TO/FROM COMMISSION MEMBERS

None.

ADJOURNMENT at 7:15



## **ORDINANCE NO. 2014-30**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF FLAGSTAFF, COCONINO COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARIZONA REVISED STATUTES, BY ANNEXING CERTAIN LAND TOTALING APPROXIMATELY 3.14 ACRES LOCATED AT 2701 S. WOODY MOUNTAIN ROAD, WHICH LAND IS CONTIGUOUS TO THE EXISTING CORPORATE LIMITS OF THE CITY OF FLAGSTAFF, AND ESTABLISHING CITY ZONING FOR SAID LAND AS RR, RURAL RESIDENTIAL**

### **RECITALS:**

WHEREAS, petitioners have a purchase agreement to buy a certain 36.94 acre parcel of land located at 2701 S. Woody Mountain Road, 3.14 acres of which are located within Coconino County, Arizona, as property adjacent to the boundaries of the City of Flagstaff, and described in Exhibits A and B attached to and made a part hereof; and

WHEREAS, a petition in writing ("Petition") accompanied by a map or plot of said Property, having been filed and presented to the Mayor and Council of the City of Flagstaff, Arizona, signed by the owners of one-half or more in value of the real property and more than one-half of the persons owning real and personal property as would be subject to taxation by the City of Flagstaff in the event of annexation of the territory and land hereinafter described as shown by the last assessment of said Property, which said territory is contiguous to the City of Flagstaff and not now embraced within its corporate limits, asking that the Property be annexed to the City of Flagstaff, and that the corporate limits of the City of Flagstaff be extended and increased so as to embrace the same; and

WHEREAS, the Mayor and Council of the City of Flagstaff, Arizona, are desirous of complying with said Petition and extending and increasing the corporate limits of the City of Flagstaff to include said territory, as described in Exhibits A and B; and

WHEREAS, said Petition set forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed to the City of Flagstaff, and had attached thereto at all times an accurate map of the territory desired to be annexed; and

WHEREAS, no alterations increasing or reducing the territory sought to be annexed have been made after said Petition had been signed by an owner of real and personal property in such territory; and

WHEREAS, the provisions of Section 9-471, Arizona Revised Statutes, and amendments thereto, have been fully observed; and

WHEREAS, proper and sufficient certification and proof of the foregoing facts are now on file in the office of the City Clerk of the City of Flagstaff, Arizona, together with a true and correct copy of the original Petition referred to herein, which is on file in the office of the Coconino County Recorder; and

WHEREAS, the development of the Property will be controlled by the conditions of approval of the annexation application, other relevant provisions of the Zoning Code, and various other City codes regulating the development of the Property; and

WHEREAS, the Council finds that the proposed annexation for the Property has been considered by the Planning and Zoning Commission and that the City staff and the Commission have each recommended that the Council proceed with the annexation at this time; and

WHEREAS, the Council has reviewed the Staff Summary Report, which discusses the proposed annexation, and now finds that the annexation of the Property would be consistent with the objectives and policies of the Flagstaff Area Regional Land Use and Transportation Plan enacted in November, 2001 ("Regional Plan"); that the annexation of the Property would not be detrimental to the majority of the persons or property in the surrounding area or to the community in general; that the proposed annexation would not require any current expenditures in the City's capital improvement program because the Petitioner will enter into a development and annexation agreement concurrent with their requested rezoning of the Property which determines the allocation of infrastructure costs; and the Council specifically further finds that:

The annexation of the Property and the existing and proposed uses thereon will further the objectives of the Regional Plan.

#### **ENACTMENTS:**

#### **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. That the following described territory be, and the same hereby is, annexed to the City of Flagstaff, and that the present corporate limits be, and the same hereby are, extended and increased to include the following described territory contiguous to the present City of Flagstaff corporate limits:

See attached Exhibits A and B which are incorporated herein by this reference.

SECTION 2. That the territory described in Exhibits A and B is annexed to the City of Flagstaff subject to the following conditions:

1. That a copy of this Ordinance, together with an accurate map of the territory hereby annexed to the City of Flagstaff, certified by the Mayor of said City of Flagstaff, be forthwith filed and recorded in the office of the County Recorder of Coconino County, Arizona.

SECTION 3. That, pursuant to the provisions of Section 9-471(L), Arizona Revised Statutes, upon this Ordinance becoming final under the provisions of Section 9-471(D), Arizona Revised Statutes, the municipal zoning designation for the Property under the Zoning Code shall be RR (Rural Residential).

SECTION 4. The Community Development Department of the City of Flagstaff is hereby directed to enter such changes and amendments as may be necessary upon the Zoning Map of said Zoning Code in compliance with this ordinance.

SECTION 5. That the Flagstaff City Clerk shall provide a copy of the adopted annexation ordinance to the Clerk of the Coconino County Board of Supervisors within sixty days of the annexation becoming final.

SECTION 6. This Ordinance shall become effective thirty days after adoption by the Flagstaff City Council.

PASSED AND ADOPTED by the Mayor and City Council of the City of Flagstaff, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

## EXHIBIT A

The following is a description of a parcel of land, being portions of that parcel described in Instrument 3546194, Coconino County Records, situate in section 19, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

Commence at the northwest corner of said parcel, which is a point on the north boundary of the "Presidio West Tract" as described in Instrument 3229602 and is a point on the south Right-of-Way line of U.S. Highway 66; The Point of Beginning;

Thence South  $85^{\circ}15'51''$  East along said north boundary a distance of 782.96 feet to the northeast corner of Instrument 3546194 which is a point on the centerline of Woody Mountain Road;

Thence South  $00^{\circ}18'32''$  East along said centerline a distance of 200.55 feet;

Thence North  $85^{\circ}16'49''$  West a distance of 786.49 feet to a point on the west line of said parcel;

Thence North  $00^{\circ}42'05''$  East along said west line a distance of 200.49 feet to the True Point of Beginning;

Said Parcel contains 156,857 sq. ft. or 3.60 acres of land more or less as shown on the attached Exhibit B which by this reference is made a part hereof.



HC zone

City File Number \_\_\_\_\_

Descriptive Title \_\_\_\_\_

**Mogollon** Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001- P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

HC REZONING MAP

A PORTION OF  
INSTRUMENT 3546194

COCONINO COUNTY RECORDS LOCATED IN  
SECTION 19, T 21 N, R 7 E, FLAGSTAFF,  
COCONINO COUNTY, ARIZONA

Found 1/2" Rebar w/  
Plastic Cap Illegible  
Melted

NW

corner  
Ins. 3546194

200.49'

500°42'05"W

U.S. HIGHWAY 66

N85°15'51"W

782.96'

South R.O.W. Hwy 66

HC

156,857 sq.ft.  
3.60 acres

N85°16'49"W

786.49'

INSTRUMENT 3546194

Found 1/2" Rebar  
Bent

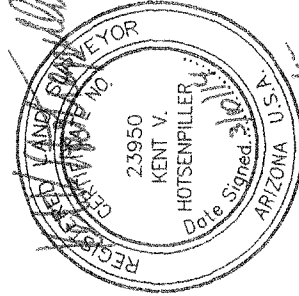
NE

corner  
Ins. 3546194

Future  
Right-of-Way

N00°18'32"W  
200.55'

WOODY MOUNTAIN  
ROAD



Survey was performed in March of 2014.  
Information shown hereon is true and  
correct to the best of my knowledge.

Expires on 3/31/15

HORIZONTAL SCALE: 1"=100'

VERTICAL SCALE:

DESIGNED/DRAWN BY: kvh

PROJECT NO. 12992

DATE: 3/10/14

**Mogollon**  
ENGINEERING &  
SURVEYING

411 W. Santa Fe Avenue, Flagstaff, Az. 86001  
P.O. Box 1952, Flagstaff, Az. 86002  
Phone: 928-214-0214 • Fax: 928-413-0015

EXHIBIT B  
HC REZONING  
MAP

## EXHIBIT A

The following is a description of a parcel of land, being portions of that parcel described in Instrument 3546194, Coconino County Records, situate in section 19, Township 21 North, Range 7 East, G.& S.R.M., Flagstaff, Coconino County, Arizona being more particularly described as follows:

Commence at the northwest corner of said parcel, which is a point on the north boundary of the "Presidio West Tract" as described in Instrument 3229602 and is a point on the south Right-of-Way line of U.S. Highway 66; thence South  $00^{\circ}43'13''$  West along the west boundary of Ins. 3546194 a distance of 200.49 feet to the Point of Beginning;

Thence continue South  $00^{\circ}43'13''$  West along said west boundary a distance of 906.95 feet;

Thence South  $43^{\circ}44'41''$  West along said west boundary a distance of 785.39 feet to the southwesterly corner of Ins. 3546194;

Thence South  $54^{\circ}53'44''$  East along the south line of Ins. 3546194 a distance of 708.86 feet to a point on the existing Right-of-Way line of Woody Mountain Road and which is the beginning of a non-tangent curve to the right, having a radius of 93.00 feet, and to which a radial line bears North  $55^{\circ}10'12''$  West;

Thence northerly along said curve a distance of 103.66 feet through a central angle of  $63^{\circ}51'49''$  to a point which is the beginning of a non-tangent curve to the left, having a radius of 5,679.58 feet, and to which a radial line bears South  $49^{\circ}08'23''$  East;

Thence northeasterly along said curve a distance of 108.49 feet through a central angle of  $01^{\circ}05'40''$ ;

Thence North  $39^{\circ}45'57''$  East a distance of 350.56 feet;

Thence South  $50^{\circ}14'03''$  East a distance of 50.00 feet to a point which is on the centerline of Woody Mountain Road;

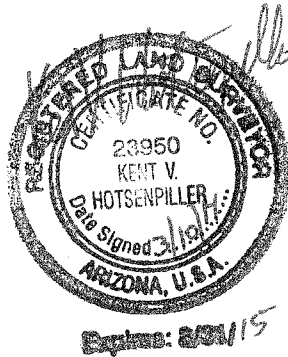
Thence North  $40^{\circ}18'44''$  East along said centerline a distance of 261.50 feet to a point which is the beginning of a curve to the left having a radius of 716.18 feet;

Thence northeasterly and northerly along said centerline along said curve a distance of 507.99 feet through a central angle of  $40^{\circ}38'26''$ ;

Thence North  $00^{\circ}18'32''$  West along said centerline a distance of 791.72 feet;

Thence North  $85^{\circ}16'49''$  West a distance of 786.49 feet to the True Point of Beginning;

Said Parcel contains 1,451,992 sq. ft. or 33.33 acres of land more or less as shown on the attached Exhibit B which by this reference is made a part hereof.



MR zone

City File Number \_\_\_\_\_

Descriptive Title \_\_\_\_\_

**Mogollon** Engineering and Surveying, Inc.

411 W. Santa Fe Ave. Flagstaff, AZ 86001-P.O.-Box 1952 Flagstaff, AZ 86002-mogollon99@aol.com- 928-214-0214

SCALE: 1"=250'

## CURVE TABLE

CURVE	RADIUS	LENGTH
C1	93.00	103.66
C2	5679.58	108.49



DESIGNED/DRAWN BY:kvh

DATE: 3/10/14

**Mogillon**  
ENGINEERING  
& SURVEYING

4111 W. Santa Fe Avenue, Flagstaff, Az. 86001  
P.O. Box 132, Flagstaff, Az. 86002  
Phone: 978-214-0214 • Fax: 978-913-0015

Survey was performed in March of 2014. Information shown hereon is true and correct to the best of my knowledge.



**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Neil Gullickson, Planning Development Manager  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



---

**TITLE:**

**Consideration and Adoption of Resolution No. 2014-42:** A resolution of the City of Flagstaff, Arizona approving a pre-annexation agreement between the City of Flagstaff and the Gosch Family Living Trust.

**RECOMMENDED ACTION:**

- 1) Read Resolution No. 2014-42 by title only
- 2) City Clerk reads Resolution No. 2014-42 by title only (if approved above)
- 3) Adopt Resolution No. 2014-42

**Policy Decision or Reason for Action:**

State law allows cities to enter into pre-annexation agreements by resolution. The proposed Pre-Annexation Agreement governs the terms and conditions of the annexation, zoning and development of the subject property.

**Financial Impact:**

No impacts are anticipated.

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOALS:**

1. Retain, expand, and diversify economic base
2. Complete Water Policy
3. Effective governance

**REGIONAL PLAN:**

The Flagstaff Regional Plan 2030 designates this site as Existing Rural.

**Has There Been Previous Council Decision on This:**

None for this location.

**Options and Alternatives:**

The City Council may approve, deny, or modify the agreement as necessary to ensure that the development meets the objectives of the Flagstaff Regional Plan 2030 and the City's development goals.

## **Background/History:**

The applicant's, Tom and Melanie Gosch, have requested a water tap into the City's new water transmission main that has recently been constructed along the north side of West Route 66. This main is the same main that will provide water to W.L. Gore's facility on Kiltie Lane. The site is located at 4392 West Route 66 and is adjacent to Route 66 and the main. There are two structures on the site, a single-family dwelling and an accessory structure.

The Water Commission reviewed and unanimously approved a recommendation by the City staff that the this property be allowed to connect to the transmission main located in West Route 66, and that approval was contingent on two conditions:

1. That this site be served by one 3/4 inch yard line that serves the existing single-family home and accessory building(s). Additional hook-ups to other homes will required additional review.
2. The approval is contingent upon the approval of a pre-annexation agreement.

The transmission main located within the West Route 66 right-of-way is 18-inches in diameter. A 20-ft long 8-inch distribution main will be used to tap the transmission main. A new fire hydrant will be located at the end of the distribution main. The 3/4-inch yard line will tap the distribution main and will feed water to the Gosch residence. Other than the existing transmission main, all of the improvements will be provided by the applicant.

This site is located adjacent to the City owned McAllister Ranch property which lies between this applicant's property and the current city boundary. Arizona Revised Statue requires that to qualify for annexation, a property must be located adjacent to an existing city boundary. This property is not currently adjacent to an existing city boundary.

## **Key Considerations:**

~~The existing development requests water services to be provided by the City. City policy is to require annexation before providing services. In cases where annexation is not practical at this time, a pre-annexation agreement is recommended. With the Pre Annexation Agreement, the City agrees to provide water services to the property prior to the property's annexation into the City. When it becomes legally permissible, the City will take such action as is necessary to annex the property.~~

**The Gosch request for out of city water service complies with the Comprehensive Water Policies adopted by Council on April 1, 2014. The request was evaluated by a cross divisional internal team (IDS review team) and meets all engineering design standard requirements for main extensions and service connections. The policy allows for water service after annexation or a pre-annexation agreement is executed. Per water policy strategy F4.1c; water extensions will be permitted after annexation of the property is completed or where the property owner has signed a pre-Annexation Agreement and it is approved by City Council.**

**The request also complies with existing city code language governing the application procedure for out of city water services. Ref City Code section 2-04-001-0007. "Any person, corporation or association desiring a water connection or tap, reclaimed wastewater connection, or sewer connection outside the limits of the City shall first apply to the Commission for such connection or tap". "The Commission shall, within five (5) days thereafter, advise the Mayor and Council, in writing, of the nature of the application, whether a public hearing was held and the recommendations of the Commission on said application."**

**The Gosch family does have a contract for out of city fire protection with the Flagstaff Fire Department. The annual fee is approximately \$264.72 per year. The additional of a fire hydrant does not relieve them of the need for a Fire Service contract.**

**Community Involvement:**

None. A pre-annexation agreement does not require public or neighborhood notification.

**Attachments:**

## Anx Agreement

Res 2014-42

WC Minutes 8-21-14

### IDS Comments

location map

PRE-ANNEXATION AGREEMENT  
BETWEEN THE CITY OF FLAGSTAFF AND THE GOSCH FAMILY LIVING TRUST

This Pre-Annexation Agreement (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the City of Flagstaff, an Arizona municipal corporation (the "City") and the Gosch Family Living Trust, Tom and Melanie Gosch, Trustees, an Arizona trust, located at 4392 W. Route 66, Flagstaff, Arizona 86001 (the "Owner") (collectively "Parties").

RECITALS

- A. The Owner owns certain parcels of real property depicted and legally described in Exhibits A and B attached hereto. For purposes of this Agreement, the parcels described in this exhibit are referred to as the "Property."
- B. The Property is currently located in an unincorporated area of Coconino County, Arizona. Although the Parties desire to annex the property into the City, annexation is not currently legally permissible because the Property does not meet the contiguity prerequisite for annexation found in A.R.S. § 9-471(H). The Owner acknowledges and understands that other properties adjacent to the Property may be added to future annexation proposals in order to meet the contiguity prerequisite necessary for annexation of the Property.
- C. The City has determined that entering into this Agreement will be in the best interests of the City and the public; will be a proper and legal exercise of City power; will promote orderly development of the Property and the surrounding area; and will promote the health, safety, welfare and economic development of the community in general.
- D. The Owner believes that annexation of the Property into the City, and development of the Property pursuant to the terms of this Agreement, will result in significant benefits to the Property, increase certainty concerning the City's regulatory treatment of the Property, and provide assurances regarding infrastructure affecting the Property.
- E. Pursuant to Flagstaff City Code §§ 2-04-001-0008 through 2-04-001-0009, the Owner has applied for out-of-City water service for the Property. The City's Water Commission has recommended the City grant this extension subject to the condition that the Owner agrees to the annexation of the Property.
- F. A.R.S. § 9-500.05 authorizes the City to enter into a development agreement with the Owner for the purpose of establishing the conditions, terms, restrictions and requirements for annexation of the Property by the City and other matters relating to the future development of the Property.
- G. The Owner's proposed development of the Property is in conformity with the City's Regional Plan 2030.

- H. The Owner's proposed out-of-City water service requires a deviation from the Council's adopted Water Policy because the Property is not located within or contiguous to the City of Flagstaff corporate limits.

#### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and agreements herein, the Parties hereto state, confirm and agree as follows:

1. Incorporation of Recitals and Exhibit. The foregoing recitals and exhibit are incorporated into this Agreement by this reference.
2. Annexation of Property. Owner hereby consents to the annexation of the Property into the City pursuant to A.R.S. § 9-471 et seq. When it becomes legally permissible for the City to annex the Property, the Owner will a) apply for annexation which includes executing and filing with the City an annexation petition as required by A.R.S. § 9-471 et seq. to initiate annexation, and b) sign any lawful annexation petition or other annexation document for the purpose of annexing the Property into the City of Flagstaff. The City will then hold such hearings and take such action as is necessary pursuant to A.R.S. § 9-471 et seq. to annex the property. Any successor(s) to Owner shall execute, file or sign any similar petitions or documents necessary to accomplish annexation of the Property.
3. Applicable Zoning. Pursuant to A.R.S. § 9-471(L), upon annexation, the City shall adopt a City zoning classification for the Property that permits densities and uses no greater than those permitted by Coconino County immediately before annexation.
4. Water. The City agrees to provide water services to the Property, in accordance with the provisions of this Agreement and all applicable City, County and State requirements, prior to the Property's annexation into the City. The City Council hereby approves a deviation to the Water Policy to permit water service to the Property although it is not within the City of Flagstaff corporate boundaries or contiguous to those boundaries because the Property is adjacent to the new waterline that the City is building along West Route 66. The water line shall be designated and extended by Owner at Owner's expense, consistent with City Code, and in accordance with the City of Flagstaff Engineering Design and Construction Standards. This agreement allows for only one ¾ inch pipe with one water meter for one single-family home. If the Owner wishes to split or subdivide the Property and obtain water service for additional structures, besides structures ancillary to the single-family home, the Owner must pursue an amendment to this Agreement. The City, County and State shall provide joint review and approval of the construction plans and permits. The City and County shall review and approve the development plans and permits and inspect the off-site water service installation(s).
5. Water Connection and Capacity Fees. Owner agrees that upon the extension of water services to the Property, Owner shall pay all fees required by the Flagstaff City Code as a condition for connection to the City's water system.

6. City Standards. The Owner agrees that if it develops the Property prior to annexation, it shall develop in general accordance with City development standards, and that it shall develop in specific compliance with all City standards, including but not limited to those related to a) police and fire access and on-site needs, b) City design review standards, and c) City landscaping standards. Owner agrees to cooperate with the City to provide review by City staff during any development efforts through the County prior to annexation.
7. Waiver of Proposition 207 Rights. The Parties agree that the Property is subject to the provisions of Proposition 207, as adopted by the voters of the State of Arizona at the November 7, 2006, General Election, which is codified at A.R.S. § 12-1131, et seq. ("Proposition 207"). The Owner acknowledges that the Owner and the City are empowered to agree to a waiver of the terms and requirements of Proposition 207, in particular those items codified at A.R.S. § 12-1134, pursuant to A.R.S. § 12-1134(I). The Owner on behalf of itself and all other parties having an interest in the Property acknowledge and knowingly waives the provisions of Proposition 207, in particular A.R.S. § 12-1134, in connection with the future annexation of the Property as well as for any claim for diminution in value as a result of any subsequent rezoning of the Property by the City as a result of the annexation.
8. Negotiated Effort. The Parties agree that this Agreement represents the negotiated joint efforts of the Parties. In the event a court of competent jurisdiction finds ambiguity, this Agreement shall not be construed against either Party in favor of a non-drafting Party.
9. Authority. All persons executing this document for the City and the Owner have all necessary and legal authority to enter into this Agreement for their respective corporations and the individual(s) executing this Agreement on behalf of their respective Parties are authorized and empowered to bind the party on whose behalf such individual is signing.
10. Successors and Assigns. The burdens and benefits of this Agreement will run with the land and be binding and inure to the benefit of the parties hereto and their respective successor and assigns. Upon the transfer of any portion of the Property, the transferring party will be released from any liability arising after the transfer with respect to the portion of the Property transferred.
11. Jurisdiction. The laws of the State of Arizona shall govern this Agreement and, in the event of a dispute, venue shall be in Coconino County, Arizona.
12. Attorney's Fees. If legal action by either Party is brought because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party is entitled to reasonable attorneys' fees and court costs.
13. Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled, in whole or in part and with respect to all or any portion of the Property, with the mutual written consent of the Parties hereto. Within ten (10) days after any such amendment or cancellation of this Agreement, the City will record such amendment or cancellation in the Official Records of Coconino County, Arizona.

14. Notice.

14.1 Manner of Service. All notices, filings, consents, approvals or other communications provided for herein or given in connection herewith ("Notices") will be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid to:

If to the City:                      City of Flagstaff  
Attn: City Manager  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

With a copy to:                      Flagstaff City Attorney's Office  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

If to the Owner:                      Tom and Melanie Gosch, Trustees  
Gosch Living Trust  
4392 West Route 66  
Flagstaff, AZ 86001

or to such other addresses as either Party may from time to time designate in writing and deliver in like manner. Any such change of address Notice will be given at least ten (10) days before the date on which the change is to become effective.

14.2 Mailing Effective. Notice given by mail must be certified and will be deemed delivered seventy-two (72) hours following deposit in the U.S. Postal Service, in the manner set forth herein, or the next business day if sent by overnight delivery or courier.

15. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
16. Headings. The description headings of the paragraphs of this Agreement are inserted for convenience only and will not control or affect the meaning or construction of any of the provisions of this Agreement.
17. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and will not be changed or added to except in the manner provided in Section 13. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, other than specifically incorporated herein by reference, are superseded by this Agreement. All prior and contemporaneous agreements, representation and understandings of the City with any other parties, oral or written,

other than specifically incorporated herein by reference, regarding any portion of or all of the Property, are superseded by this Agreement.

18. Recordation. No later than ten (10) days after the City and the Owner have executed this Agreement, it will be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
19. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable all other provisions hereof.
20. Cancellation. This Agreement is subject to cancellation for conflict of interest without penalty or further obligation as provided by A.R.S. § 38-511.
21. Term. This Agreement shall be effective upon its recordation and shall automatically terminate upon the effective date of the City Ordinance annexing the Property, provided, however, the City shall not discontinue applicable municipal services to the Property, once commenced, except as permitted by applicable law.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as provided herein:

City of Flagstaff, an Arizona Municipal  
Corporation

By: \_\_\_\_\_  
Gerald W. Nabours, Mayor

Date: \_\_\_\_\_

Attested by:

By: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

Approved As to Form:

By: \_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_



OWNER:

Tom and Melanie Gosch, Trustees  
Gosch Family Living Trust, an Arizona trust.

By: \_\_\_\_\_  
Name:  
Title: Trustee

By: \_\_\_\_\_  
Name:  
Title: Trustee

Date: \_\_\_\_\_

STATE OF ARIZONA     )  
                                      ) ss.  
County of Coconino     )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
201\_\_, by \_\_\_\_\_, the trustee of the Gosch Family Living Trust.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

STATE OF ARIZONA     )  
                                      ) ss.  
County of Coconino     )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
201\_\_, by \_\_\_\_\_, the trustee of the Gosch Family Living Trust.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

## **RESOLUTION NO. 2014-42**

### **A RESOLUTION OF THE CITY OF FLAGSTAFF, ARIZONA APPROVING A PRE-ANNEXATION AGREEMENT BETWEEN THE CITY OF FLAGSTAFF AND THE GOSCH FAMILY LIVING TRUST**

#### **RECITALS:**

WHEREAS, the Gosch Family Living Trust, an Arizona living trust ("Owner"), owns approximately 6.4 acres of real property located adjacent to Route 66 in Coconino County, Arizona, legally described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, although Owner desires to annex the Property into the City of Flagstaff, annexation is not legally permissible at this time as the Property does not meet the contiguity prerequisite for annexation found in A.R.S. § 9-471(H); and

WHEREAS, Owner and the City of Flagstaff wish to enter into a Pre-Annexation Agreement, a copy of which is attached to the Staff Summary Report submitted in support of this Resolution, in order to facilitate the eventual annexation of the Property and its future development after annexation; and

WHEREAS, A.R.S. § 9-500.05 authorizes municipalities to enter into development agreements for the purpose of addressing issues related to annexation.

#### **ENACTMENTS:**

#### **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. The Pre-Annexation Agreement proposed by City staff and the Owner and submitted as an attachment to the Staff Summary Report for the Council meeting of December 2, 2014 is hereby approved, and the Mayor is authorized and directed to execute the Agreement on behalf of the City of Flagstaff.

SECTION 2. That City staff is hereby authorized to take such other and further measures and actions as are necessary and appropriate to carry out the terms, provisions, and intents of this Resolution, including, but not limited to, the recording of any necessary documents in the Office of the Coconino County Recorder.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 2nd day of December, 2014.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY

EXHIBIT 'A'  
LEGAL DESCRIPTION FOR GOSCH PRE-ANNEXATION

LOCATED IN THE northeast one-quarter of Section 24, Township 21 North, Range 6 East (NE/4 Sec. 24, T21N, R6E) of the Gila and Salt River Meridian (G&SRM), Coconino County, Arizona;

BEING ALL THAT portion of land described in Instrument No. 3477525, Coconino County records, a copy of which is attached hereto as reference.

**LEGAL DESCRIPTION**  
**ASSESSOR'S PARCEL NO: 116-04-006**

A PARCEL OF LAND IN THE COUNTY OF COCONINO, STATE OF ARIZONA LYING IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 6 EAST, GILA AND SALT RIVER MERIDIAN, DESCRIBED AS FOLLOWS:

THAT CERTAIN 5.967 ACRE PARCEL OF LAND DESCRIBED IN DEED DATED MAY 22, 1972 FROM SANTA FE LAND IMPROVEMENT COMPANY TO THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, RECORDED JUNE 12, 1972 IN DOCKET 427, PAGES 354-356 RECORDS OF SAID COUNTY, SAID 5.967 ACRE PARCEL BEING DESCRIBED IN SAID DEED FOR REFERENCE AS FOLLOWS:

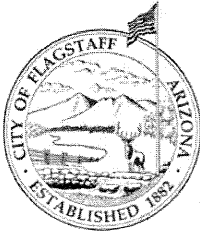
"BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, BEING DISTANT SOUTH (BEARINGS ASSUMED FOR PURPOSE OF THIS DESCRIPTION) ALONG THE EASTERLY LINE OF SAID SECTION 24 1317.78 FEET FROM THE NORTHEASTERLY CORNER OF SAID SECTION; THENCE NORTH 88°03'46" WEST ALONG THE SOUTHERLY LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER 713.42 FEET; THENCE NORTH 70°42'46" WEST ALONG A LINE 641.68 FEET TO ITS INTERSECTION WITH THE WESTERLY LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 0°14'16" EAST ALONG SAID WESTERLY LINE 331.83 FEET TO ITS INTERSECTION WITH THE SOUTHWESTERLY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S 200 FOOT WIDE RIGHT OF WAY AS DESCRIBED IN DEED TO THE SANTA FE LAND IMPROVEMENT COMPANY, DATED AUGUST 21, 1917, RECORDED NOVEMBER 14, 1917, IN BOOK 44 OF DEEDS, PAGES 561 AND 562, RECORDS OF SAID COUNTY; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE, FROM WHENCE A TANGENT BEARS SOUTH 54°07'21" EAST, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 1546.12 FEET, THROUGH A CENTRAL ANGLE OF 12°13'14" A DISTANCE OF 329.77 FEET; THENCE SOUTH 66°20'35" EAST (TANGENT TO THE PRECEDING COURSE) 559.01 FEET TO POINT OF TANGENCY; THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 1049.99 FEET, THROUGH A CENTRAL ANGLE OF 29°01'29" A DISTANCE OF 531.90 FEET TO A POINT IN THE EASTERLY LINE OF SAID SECTION; THENCE SOUTH 96.54 FEET ALONG SAID EASTERLY LINE TO A POINT OF BEGINNING.

"CONTAINING AN AREA OF 5.967 ACRES, MORE OR LESS."

EXHIBIT 'B'  
LEGAL DESCRIPTION FOR GOSCH PRE-ANNEXATION

LOCATED IN THE northeast one-quarter of Section 24, Township 21 North, Range 6 East (NE/4 Sec. 24, T21N, R6E) of the Gila and Salt River Meridian (G&SRM), Coconino County, Arizona;

BEING ALL of Parcel 8 as depicted in Results of Survey recorded in Instrument No. 3651545, Coconino County records.



**WATER COMMISSION**  
**August 21, 2014**

**SUMMARIZED MINUTES**

**MEMBERS PRESENT**

Brian Ketter  
John Nowakowski  
Dick Kersey  
Brad Garner  
Bob Shinham  
John Malin  
Charlie Odegaard  
Justin Ramsey

**MEMBERS ABSENT**

Hanna Cortner

**STAFF PRESENT**

Brad Hill  
Marion Lee  
Jim Davis  
Erin Young  
Neil Gullickson  
Nicole Woodman

**OTHERS PRESENT**

Tom & Melanie Gosch  
Harold Alter

**I. CALL TO ORDER**

Chair, Brian Ketter called the meeting to order at 4:00 p.m.

Brian Ketter postpone Item IV., C to next month since Malcolm was unable to attend meeting.

**II. APPROVAL OF MINUTES – June 19, 2014**

Moved by Brad Garner and seconded by Bob Shinham that the minutes of June 21, 2014 be approved. All approved.

**III. PUBLIC PARTICIPATION - None**

**IV. NEW BUSINESS**

**A. Wastewater Master Plan – Rob McCandelles (Brown & Caldwell)**

Mark Courtney and Rob McCandelles presented a PowerPoint presentation on the Flagstaff Sewer Master Plan Project. The primary purpose of the Utilities Wastewater Master Plan is to:

- Master Plan is component of Utilities Integrated Master Plan
- perform a comprehensive analysis of the City of Flagstaff's Wastewater system
- to identify system deficiencies
- to determine future wastewater collection system requirements, and
- to recommend wastewater system facility improvements that correct existing deficiencies and that provide for future system expansion.
- the objective of these planning efforts is to guide strategic long-term planning.

This Wastewater Master Plan is a 20-year planning document and projects wastewater system needs through 2035. For proper planning, wastewater master plans must be kept current. This means that the City can expect to update its 20-year plan every four to five years. However, it is recommended that the City review the projected sewer demand in three years to determine if current conditions warrant action to begin acquiring additional treatment capacity. This will allow the City time to evaluate changes in sewer flow that may result in upsizing of sewer mains or additional treatment capacity that must be added by the City. The current plan does not budget funds for any wastewater treatment capacity expansion projects.

John Nowakowski asked staff if the City had a policy that would not allow new sewer taps in areas where there is a potential for the manholes to surcharge. Jim Davis indicated that there is not a policy to limit individual single family homes that are being constructed, only developments of 10 or more single family units are required to have a Water and Sewer Impact Analysis (WSIA) per the City of Flagstaff Engineering Standards.

B. Out of City Water Service Request – Jim Davis

Jim Davis presented this item and introduced Thomas and Melanie Gosch. The Gosch are requesting an out of City water service connection off of a newly installed 19" water transmission along the frontage of their property on W. Route 66. The water service and meter will service their existing home located outside the corporate city limits at 4392 W. Route 66 (Parcels APN 116-04-006 and APN 116-040041. There is no sewer service available to this site. The City of Flagstaff's Planning Division has determined that this property cannot annex into the City, by itself, it meets neither the minimum width nor depth requirement identified for annexation by the ARS. ARS requires minimum 300' adjacent to a city boundary and minimum 200 feet of depth from that line.

Any application for water and sewer service to serve a residence or development in an area outside of corporate City limits is required by City Code to go to the City Water Commission for review. The City Water Commission is required to review each application and forward a recommendation to the City Council. The Mayor and Council have the final decision based on the request and recommendation of the Water Commission. Per resolution No. 1521, adopted December 15, 1987 and per Resolution 2014-13 adopted April 1, 2014, the City Policy on out of City water or sewer requests directs the City to consider each request on a case by case basis and allows the City to grant such requests subject to special conditions deemed necessary by the request. In this case, staff recommends approval based on the owner entering into a pre-annexation agreement and paying all applicable fees. In addition City Code requires that all water taps or connections made outside the corporate limits of the City shall be 110% of the standard charges, fees, and/or deposits. Before connection to the water service is made, the applicant will pay water capacity fees based on the size of their new water meter.

The City of Flagstaff Engineering Standards Section 13-09-003-0007 (E) (1) and the Utilities Integrated Master Plan/Principles of Sound Water Management/Water Policies Chapter F4.2a do not allow service taps on the water mains 16 inches in diameter and larger. Therefore this applicant is being required to install an 8" main off of the 18" transmission main, and install a fire hydrant assembly per City of Flagstaff Engineering Standards along with the new water service, after obtaining the proper construction plans and City and /or State right-of-way permits.

John Nowakowski asked how big of a lot this was and Mr. Gosch said 6.5 acres. In a pre-annexation agreement John indicated it should be noted that this is a single tap for a single residence. There was further discussion on the whole process of annexation and the Commission agreed to include this as part of the recommendation.

Brad indicated since there is a New Water Policy in place, if a cross-divisional team met to discuss the strategies (Strategy F4.1d). Jim said there was no cross-divisional meeting on this particular request but it was reviewed by staff.

Brian Ketter made a motion to recommend to Council to approve the Out-of-City water service request; however the pre-annexation was not included so another motion was made.

Moved by John Malin and seconded by Bob Shinham to recommend to Council to approve the Out-of-City water service at 4392 W. Route 66 with the condition that it is for a ¾ inch meter tap/single family residence and that it includes the pre-annexation with this condition. All approved.





# City of Flagstaff Concept Review Comments

Project Title:	<b>GOSCH FIRE HYDRANT</b>	C.O.F Project No:	DEV 14-058
Type of Review:	Concept Plans Submittal	Project Manager:	Neil Gullickson
Date:	29-Oct-14	Email: ngullickson@flagstaffaz.gov	Phone: 928-213-2614

<i>Item No.</i>	<i>COMMENTS</i>
	<p><b>PLANNING:</b>            A pre-annexation agreement will need to be reviewed and approved by the City Council. As part of the staff report, a draft of the annexation agreement will need to be presented. Staff will meet on November 3<sup>rd</sup> with the intent to finalize the pre-annexation agreement. A meeting with the applicant will be needed to review the agreement, anticipate a meeting request on or about November 10. Council review will be scheduled as quickly after the agreement has been finished. Anticipate the first Council meeting in December.</p> <p>Provide a copy of the legal description on archival paper for attachment to the pre annexation agreement.</p> <p><b>FIRE DEPARTMENT</b>            None            10/13/2014            K. Snide</p> <p><b>BUILDING &amp; SAFETY DIVISION</b>            Michael Scheu, Building Official            Phone: 213-2620            Email: mscheu@flagstaffaz.gov  <b>CONDITIONS:</b> None  <b>COMMENTS:</b></p> <p><b>UTILITIES</b>            Concept Plan Review            Completed 10/10/2014 - Jim Davis  <b>Conditions:</b>            1. The applicant must sign a pre annexation agreement and be approved for the out of city water request by the City Council.  <b>General Comments:</b>            1. An additional 6" valve must be added between the fire hydrant and the water service on the Civil Plans.</p> <p><b>PUBLIC WORKS</b>            Concept Plan Review            Completed 10/10/2014 - Jim Davis            No Conditions</p> <p><b>DEVELOPMENT ENGINEERING, Dana Cole, 10/28/14:</b>            1. Is main run long enough to put the hydrant outside of the ultimate roadway section at full buildout? If not, is there a PUE needed to extend the line onto the Gosch parcel? This needs to be addressed as part of the Construction Plan submission.</p> <p><b>STORMWATER</b>            Concept Plan Review            Completed 10/15/2014 - Kyle Brown            No conditions or comments</p> <p><b>TRAFFIC SECTION REQUIREMENTS:</b>            No comments</p>



City of Flagstaff  
Concept  
Review Comments

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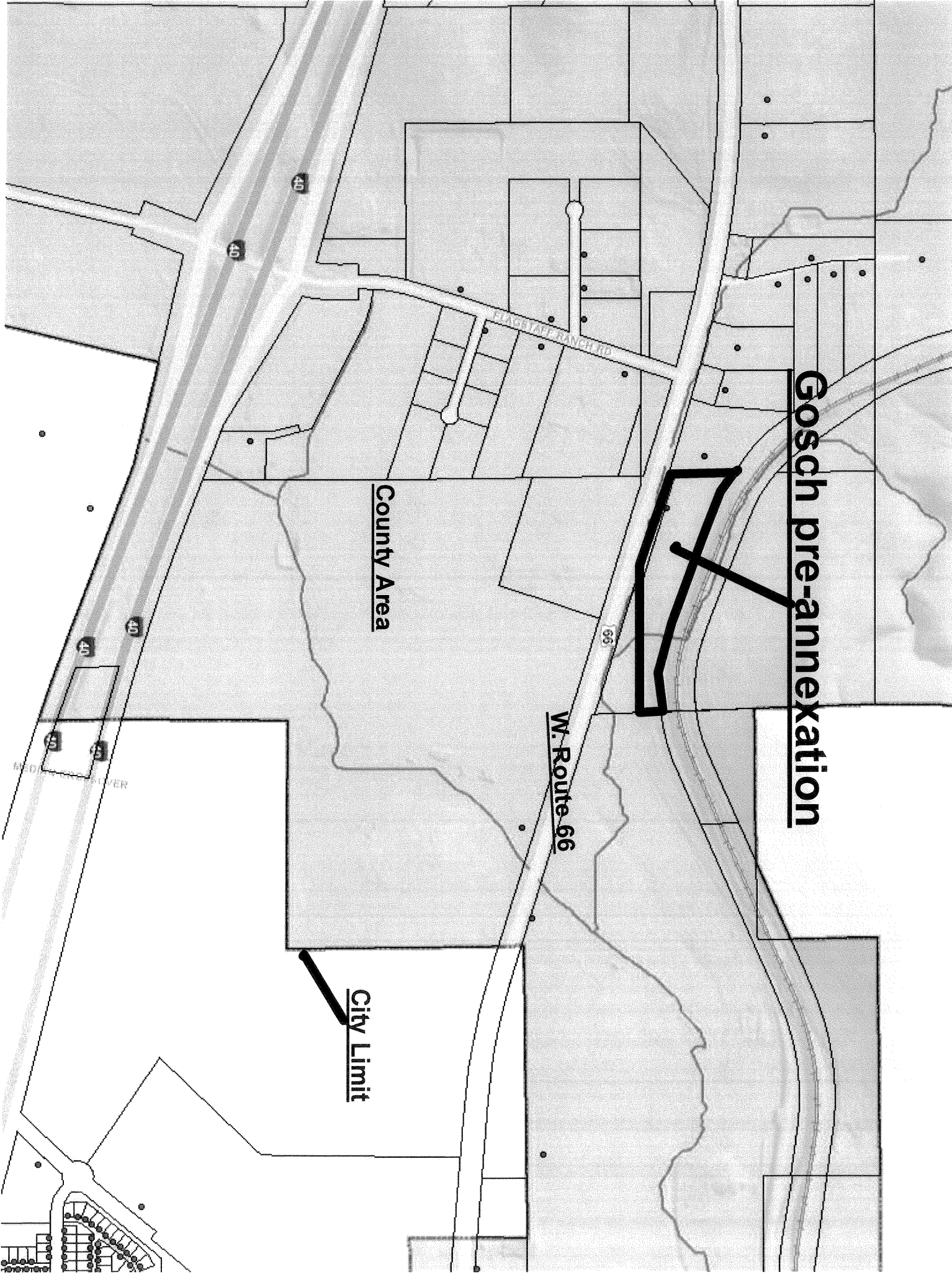
# Gosch pre-annexation



W. Route 66

County Area

City Limit



## CITY OF FLAGSTAFF STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Jerry Bills, Deputy Fire Chief  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



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### TITLE:

**Consideration and Approval of Cooperative Contract:** Purchase of a Type I Pierce Quantum Pumper Fire Truck, for City of Flagstaff Fire Department through a City of Mesa cooperative purchase contract, #2013-118 (***Approve contract for purchase of fire truck for a total amount not to exceed \$460,283.00, plus applicable sales tax***).

### RECOMMENDED ACTION:

Approve the purchase of Type I Pierce Quantum Pumper Fire Truck from Hughes Fire Equipment, Inc. a Pierce Sales Distributor using a City of Mesa's cooperative purchase contract for a total not to exceed \$460,283.00 plus applicable sales tax.

### Policy Decision or Reason for Action:

The purchase of Type I Pierce Quantum Pumper Fire Truck supports the continuing operations of the Flagstaff Fire Department.

Decision Points: This action will allow the Flagstaff Fire Department to match continued and established working fire equipment within the Fire Fleet. We currently have both Pierce Pumper and Aerials in our Fleet that are providing excellent services and reliability. These vehicles will meet our needs and are expected to remain in service for the next twenty years. By continuing to use the Pierce products, our Fleet Department has to stock less parts, our technician is very familiar with these types of units and therefore the repair costs and down time are kept under control. We also received the pricing from a competitive bid process, structured as a cooperative purchase by the City of Mesa.

### Financial Impact:

The Fleet plan for the Fire Department is to purchase a replacement type 1 Pumper Fire truck after 25 years of service and 110 % of the vehicle value spent in repairs during its life. This purchase will replace a 1990 Pumper fire truck with over 125% of its original value expended in repairs. Funds were allocated in the FY 2015 Budget for this purchase.

### Connection to Council Goal:

#### COUNCIL GOALS:

11. Effective governance

#### REGIONAL PLAN:

E. 1. Increase energy efficiency.

PF.3 Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport services.

**Has There Been Previous Council Decision on This:**

No

**Options and Alternatives:**

1. Approve the purchase of Type I Pierce Quantum Fire Truck using the City of Mesa's cooperative purchase contract.
2. Conduct the competitive bid process, evaluate responses and select a vendor.
3. Do not purchase a truck at this time.

**Background/History:**

The Fire Department is replacing a 1990 Type I Fire Pumper truck. This new vehicle will be housed at Station 1 and move Engine 1 to station 4. The engine at station 4 would move into a reserve status. These actions would decrease the Fire Department's overall average Fleet age and provide efficient and dependable fire and EMS coverage for two districts within the City. The Fleet Committee approved this Fire Type I truck purchase in 2014.

**Key Considerations:**

There are 3 items to consider with the purchase and deployment of the Type I Pierce Quantum Pumper Fire truck. This will replace a 1990 pumper truck, and will be placed in service at Station 1. The current vehicle at Station 1, will move to Station 4 and the current vehicle at station 4 will become a reserve vehicle. The Type I Pierce Quantum Pumper Fire truck is less expensive to operate and is also providing for a newer vehicle at station 4 which is less expensive to operate than their current unit; which is a 1992 pumper truck.

**Expanded Financial Considerations:**

The purchase of this vehicle was approved by the Fleet Committee and funds were allocated in the current years fiscal budget.

**Community Benefits and Considerations:**

With the replacement of the 1990 Type 1 Fire Pumper, the city will receive a less expensive, lower emission producing, and safer to operate vehicle to continue to provide efficient services to the community.

**Community Involvement:**

Inform

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**Attachments:**     Fire Pumper



Flagstaff Fire Department  
One (1) Quantum Pumper JC378

10/13/2014

Proposal Price		\$ 485,432.00
Arizona State Sales Tax @	5.60%	27,184.19
Phoenix Sales Tax @	2.70%	13,106.66
<i>Total Bid Price Including Sales Tax</i>		<u>\$ 525,722.86</u>

Less chassis progress payment discount (8,931.00)

The chassis progress payment in the amount of  
\$297,690.00 will be due three (3) months prior to the ready  
for pick up from the factory date.

Less payment upon completion @ factory discount (5,590.00)

\* Deduct for 100% pre-payment with contract (10,673.00)

If this option is elected, the discount is in addition to the  
chassis progress payment discount and the payment upon  
completion at the factory discount.

Proposal price including discounts 460,238.00

Arizona State Sales Tax @	5.60%	25,773.33
Phoenix Sales Tax @	2.70%	12,426.43
<i>Total Bid Price Including Sales Tax</i>		<u>\$ 498,437.75</u>

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Terms:

The unit would be ready for delivery from the factory within 8.5 to 10.5 months after contract execution.

The above pre-payment discount will be valid for 90 days.

An invoice will be provided 30 days prior to the chassis payment due date if elected, or within a few days of order placement if 100% prepayment is elected.

If payment options are not elected, standard payment terms will apply: final payment will be due 30 days after the unit leaves the factory for delivery.

Transportation of the unit to be driven from the factory is included in the pricing. However, if we are unable to obtain necessary permits, due to the weight of the unit, and the unit must be transported on a flat bed, additional transportation charges will be the responsibility of the purchaser. We will provide pricing at that time if necessary.

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**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Mark Gaillard, Fire Chief  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



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**TITLE:**

**Consideration and Approval of Cooperative Contract:** Consider an amendment to extend an IGA with the Lockett Ranches Fire District for Fire/Medical/Rescue Services (***Amend IGA with Lockett Ranches Fire District to extend the term***).

**RECOMMENDED ACTION:**

Approve an IGA amendment extending the term of the IGA between the Lockett Ranches Fire District and the City of Flagstaff.

**Policy Decision or Reason for Action:**

The City of Flagstaff has entered into an IGA with Lockett Ranches Fire District (District) for the provision of fire/medical/rescue services. As provided for in the current IGA, the District has requested an extension of the term of the IGA. The IGA provides general fund revenue for the City of Flagstaff in return for fire/rescue/medical services to the District. The District receives a level of service that would be difficult to attain given its smaller size and Flagstaff receives equitable reimbursement for service without the necessity of adding staffing or equipment.

**Financial Impact:**

The financial terms provided for in the amendment to the IGA are in accordance with Chapter 5 of the Flagstaff City Code. The base contract rate for the 5 year extension is \$ 166,760.93 annually. The rate will be modified in years 2-5 with the Consumer Price Index. Notwithstanding the application of the CPI, the general fund impact of the IGA is \$ 833,804.65.

**Connection to Council Goal and/or Regional Plan:**

**COUNCIL GOAL:**

Effective governance: The extension of this IGA supports continued cooperation between two local governments for the provision of fire/rescue/medical services.

**REGIONAL PLAN:**

Goal PF.I Work across all government operations and services to prepare for the impacts of natural and human caused hazards.

**Has There Been Previous Council Decision on This:**

City Council entered into the existing IGA in 2011.

**Options and Alternatives:**

If Council elects to approve the IGA the existing service provisions between the City and the District will be extended 5 years.

If the Council elects to not extend the IGA, it will expire in December 0f 2016. The ensuing loss of revenue will begin FY 17.

**Community Involvement:**

***Choose which of the following that applies and REMOVE ALL OTHERS:***

Inform

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**Attachments:**     IGA COF/Lockett Ranch FD



## **AMENDMENT**

### **INTERGOVERNMENTAL AGREEMENT between the CITY OF FLAGSTAFF and LOCKETT RANCHES FIRE DISTRICT**

The following amendment ("Amendment") is incorporated into and made a part of the Agreement between the City of Flagstaff ("City") and Lockett Ranches Fire District ("District") dated March 1, 2011 (the "Agreement"). This Amendment is for the purpose of extending the duration of the Agreement for five (5) years and modifying the fee for service provisions of the Agreement.

### **RECITALS**

- A. The City and the District entered an Intergovernmental Agreement on March 1, 2011. The purpose of the Agreement is to allow the City to provide fire and emergency medical services to the District; and
- B. Pursuant to Section 4.1.3 of the Agreement, the City and the District wish to extend the duration of the Agreement for five (5) years and amend the fee for services provisions of the Agreement.

THEREFORE, for the reasons recited above, and in consideration of the mutual covenants contained in this Amendment, the City and the District agree as follows:

### **TERM**

The term of the Agreement shall be extended for five (5) years from the present termination date to June 30, 2021.

### **FEE FOR SERVICES PROVIDED**

The District agrees to compensate the City for the services provided at the following rate:

1. For FY 2017, the Base Contract Rate shall be \$166,760.93.
2. The Base Contract Rate shall be increased on an annual basis by an amount equal to the Consumer Price Index for all Urban Consumers using the U.S. City average ("CPI-U"). In no event shall a Base Contract Rate be reduced in any subsequent year as a result of a decrease in the CPI-U.

All other provisions of the Intergovernmental Agreement between the City and the District dated March 1, 2011 shall remain in effect for the length of the term stated in this Amendment.

**City of Flagstaff**

**Lockett Ranches Fire District**

\_\_\_\_\_  
Kevin Burke, City Manager

\_\_\_\_\_  
Chairperson

Attest:

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

Attorney's approval

\_\_\_\_\_  
City Attorney

Attorney for the District

Date of Execution: \_\_\_\_\_

## CITY OF FLAGSTAFF

### STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Mark Gaillard, Fire Chief  
**Date:** 11/24/2014  
**Meeting Date:** 12/02/2014



#### TITLE:

**Consideration and Approval of Intergovernmental Agreement:** Council will consider authorizing the City of Flagstaff to enter into an IGA to fund a Regional Training Coordinator (RTC) for fire department training (***Approve IGA for Fire Department Regional Training Coordinator***).

#### RECOMMENDED ACTION:

Staff recommends that Council approve the IGA and authorize the Mayor to execute the IGA.

#### Policy Decision or Reason for Action:

Fire Training is an important part of managing the risk to our firefighters and achieving acceptable outcomes in the very high risk activities associated with Fire Department services. This multi-agency funded position will enable the partner fire departments to maintain and improve high risk fire firefighting skills through the implementation of a regional training program targeting improved service to our respective communities and higher levels of safety for our firefighters. **The attached Intergovernmental Agreement is revised from what was included in the Draft Agenda packet**

#### Financial Impact:

The adopted budget for FY 14-15 includes the new position fully funded at \$74,533.00. The costs will be allocated to the participating members as defined in the IGA. The City of Flagstaff portion will be 40% or \$29,813.16. Camp Navajo and the National Guard are participating as well. However, they are contributing their funding through billing.

#### Connection to Council Goal and/or Regional Plan:

##### COUNCIL GOAL:

Effective governance:

The IGA is consistent with the City Council's Goal for Effective Governance as the cost of services is spread among partners in the provision of Fire Department services.

##### REGIONAL PLAN:

Goal LU.7. Provide for public services and infrastructure.

Goal PF.2. Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Goal PF.3. Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport service

**Has There Been Previous Council Decision on This:**

No Previous Action

**Options and Alternatives:**

The IGA was contemplated in the approval of the FY 15 budget. Should City Council choose not to enter into this IGA, the implementation of regional fire department training would be delayed.

**Background/History:**

The City of Flagstaff Fire Department desires to expand its cooperative efforts in regional response. The provision of a Regional Training Coordinator will result in improved fire service delivery and increased levels of safety due to consistent operational procedures, particularly those in high risk fire department operations. To initiate this level of service the partners desire to share expenses to provide a training coordinator to plan, schedule and implement regional training. The funding agencies are the Arizona National Guard, Camp Navajo Fire Department, Flagstaff Fire Department, Highlands Fire District, Ponderosa Fire District, and Summit Fire District.

**Community Benefits and Considerations:**

Improved fire department services and increased safety for firefighters is the directed outcome for this IGA.

**Community Involvement:**

Inform

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**Attachments:**     Revised IGA  
                             RTC Cost Allocation

**INTERGOVERNMENTAL AGREEMENT  
FOR REGIONAL TRAINING COORDINATOR**

**between**

**the City of Flagstaff**

**and**

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This intergovernmental agreement ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, between the City of Flagstaff ("CITY"), an Arizona municipal corporation, with offices at 211 W. Aspen Avenue, Flagstaff, Arizona, and Highlands Fire Department, Ponderosa Fire Department, and Summit Fire Department ("PARTIES").

**RECITALS**

- A. The PARTIES desire to enter into this Agreement for a Regional Training Coordinator; and
- B. The PARTIES recognize the importance of interagency cooperation; and
- C. The PARTIES participate in the "Cooperative Greater Flagstaff Area Fire Agencies All Risk Emergency Intergovernmental Agreement," an IGA intended to maximize interagency cooperation to include training; and
- D. The PARTIES of this agreement make up the Regional Training Group (RTG comprised of the Chiefs of the Departments participating in the RTG); and
- E. Emergency service training is required for the PARTIES to maintain their legally mandated training requirements, provide for maintenance of skills, and provide for consistency of operations; and
- F. The PARTIES concur that working collaboratively yields the highest levels of services in conjunction with the most effective use of local fire, rescue, and emergency medical department resources; and
- G. The PARTIES recognize that effective regional training will require the participation of a training officer from each PARTY.

**1. Purpose**

The purpose of this Agreement is to fund a Regional Training Coordinator and to coordinate regional training of emergency service personnel that will provide operational consistency between the PARTIES within the greater Flagstaff region.

**2. Scope**

The scope of this Agreement shall include the following:

A. Duties and Responsibilities of the Regional Training Coordinator

1. Manages the Regional Training Program;
2. Develops an Annual Regional Training Plan (calendar, schedule and budget) for approval by the RTG;
3. Schedules multi-company drills involving RTG agencies;
4. Develops lesson plans;
5. Serves as the Site Supervisor for all RTG scheduled training;
6. Prepares and submits grants for regional training;
7. Ensures compliance with OSHA requirements governing fire department training;
8. Ensures compliance with NFPA 1403 standard for live fire training;
9. Supervises fire training instructors from the partnering fire departments during regional training;
10. Attends all meetings of the RTG;
11. Serves as Secretary of the RTG and develops and disseminates notes of RTG proceedings;
12. Provides quarterly and annual reports regarding the Regional Training Program;
13. Provides staff support for committees appointed by the RTG;

B. Management of the Fire Training Coordinator

1. General Objectives to be achieved by the Fire Training Coordinator shall be established the RTG.
2. The Flagstaff Fire Department shall be responsible for managing the day-to-day operations, including the following:
  - a. Supervisory Oversight
  - b. Human Resources
  - c. Quality Control

C. The Parties acknowledge that the effective delivery of the Training Plan will require the participation of training officers from each Party for program delivery.

### **3. Costs**

- A. Personnel Costs shall be defined as the basic employee compensation costs attributed to the position of Regional Training Coordinator. For the purposes of this Agreement, those costs are fixed for the first year at \$ 51,402.00.
- B. Salary Costs shall be adjusted annually, by applying merit, longevity, market increases, and any Flagstaff City Council authorized increases in salary. The intent is to achieve 100% cost recovery of personnel costs.
- C. Benefit Costs are the employer-funded costs associated with providing “fringe” benefits to employees. For the purposes of this Agreement, those benefits include, but are not limited to, medical insurance, dental insurance, life insurance, worker’s compensation, short term and long term disability, and an annual physical.
- D. The parties mutually agree that, for the purposes of this Agreement, Year 1 Benefit Costs shall be fixed at \$ 23,130.90 for the position of Regional Training Coordinator
- E. On an annual basis, Benefit Costs shall be adjusted based on any increase in employer- funded costs for those benefits provided to City of Flagstaff employees.
- F. Distribution of costs shall be based on a per capita assessment updated annually. Year 1 distribution of costs shall be based upon the schedule set forth in Appendix A, attached. Distribution of costs for subsequent years shall be administratively amended to reflect changes in per capita utilization and increased costs of the Fire Training Coordinator.
- G. Billing will occur annually during the month of July for the following year. Upon execution of the Agreement, the terms will be prorated to the nearest month.
- H. The Parties may provide training to the other agencies on a fee for service basis consistent with the cost distribution method outlined in Section 3.F of this agreement.

### **4. Indemnification**

Each Party to this Agreement shall indemnify, defend and hold harmless the other Party, their members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses resulting from the negligence or willful misconduct of the indemnifying Party or Parties, provided however, nothing herein shall be construed to expand the liability of any Party or its employees beyond the gross negligence/intentional misconduct standard applicable to emergency medical technicians or paramedics providing emergency medical aid as provided for in A.R.S. §48-818. This indemnification shall survive termination of this Agreement or the termination of the participation of any of its Parties.

### **5. Worker’s Compensation Claims**

The Parties shall comply with the provisions of A.R.S. §23-1022 (E) by posting the

public notice required. As provided for in A.R.S. §23-1022(D), an employee of a public agency who works under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to a specific intergovernmental agreement or contract entered into between the public agencies is deemed to be an employee of both public agencies. However, the primary employer is solely liable for the payment of Workers' Compensation benefits. As such, each Party shall maintain Workers' Compensation insurance coverage on all of its own employees providing services pursuant to this Agreement.

## **6. Insurance**

Each Party shall bear the risk of its own actions, and shall determine for itself an appropriate level of insurance coverage and maintain such coverage. Nothing in this Agreement shall be construed as a waiver of any limitation on liability that may apply to a Party.

## **7. Effective Date; Term; Effect of Termination on Remaining Parties; Renewal**

- A. Effective Date. This Agreement will become effective for each Party after approval by its governing body (the "Effective Date").
- B. Term. Except as otherwise provided in this Agreement, this Agreement will remain in effect for a period of five (5) years, unless extended or terminated by action of the Parties.
- C. Termination. Any Party may terminate its participation in this Agreement by providing the other Party (or Parties) thirty (30) days written notice.
- D. The termination by one or more of the parties to this Agreement shall not affect the operation of the Agreement as between the other parties thereto.
- E. Renewal. This Agreement may be renewed for two (2) additional five (5) year periods, subject to agreement by the Parties. For the City of Flagstaff, the City Manager shall be authorized to approve such renewals.

## **8. Cancellation for Conflict of Interest**

This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511.

## **9. Compliance with All Laws**

Each Party shall comply with all federal, state, and local laws, rules and regulations.

## **10. Execution Procedure**

This Agreement will be executed in counterparts by the governing body of each Party.

## **11. Non-Discrimination**



Each Party warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, creed, religion, sex, genetic information, age, national origin, disability, familial status or political affiliation, shall have equal access to employment opportunities, including but not limited to the Americans with Disabilities Act. Each Party shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, Genetic Information Nondiscrimination Act of 2008.

## **12. Legal Arizona Workers Act Compliance**

Parties are required to comply with A.R.S. §41-4401, and hereby warrants that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the “state and federal immigration laws”). Parties further agree to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the Party who breaches may be subject to penalties up to and including termination of the Agreement.

Each Party retains the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other Party is complying with the warranties regarding compliance with the state and federal immigration laws.

## **13. Non-appropriation**

This Agreement shall be subject to available funding for each Party, and nothing in this Agreement shall bind any Party to expenditures in excess of funds appropriated and allotted for the purposes outlined in this Agreement.

## **14. No Third Party Beneficiaries**

The Parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Agreement are for the sole benefit of, and may be enforceable solely by, the Parties, and none of the terms, provisions, conditions, and obligations of this Agreement are for the benefit of, or may be enforced by, any person or entity not a party to this Agreement.

## **15. Right to Enter into Additional Agreements**

The PARTIES to this Agreement are not precluded from participating in additional or supplemental IGA’s or contracts as deemed appropriate by the PARTIES. Nothing in this Agreement shall limit the ability of a PARTY to provide or collaborate with another

jurisdiction, which is not a participant in this Agreement, for training; that is apart from the services provided by the Regional Training Coordinator, as set forth by this Agreement.

## 16. Waiver of Potential Conflict

By signing below, each of two Parties to the Agreement, Summit Fire District and Ponderosa Fire District, acknowledge that it is represented by the Coconino County Attorney and hereby waives any potential conflict to the extent known as of the date of approval by its respective governing body. To the best of each party's knowledge no apparent conflict is known to exist and each party consents to being represented by the County Attorney in the negotiation and drafting of this agreement.

## 17. Signatures

Each party represents and warrants that all necessary approvals for this agreement have been obtained, and the persons whose signatures appear below have the authority necessary to execute this agreement on behalf of the parties indicated.

**City of Flagstaff**

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Mayor

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Attest:

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City Clerk

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Approved as to form:

Date of formal approval by governing  
body:

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City Attorney

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**Intergovernmental Agreement  
for Regional Training Coordinator**

**Signature Page**

IN WITNESS WHEREOF, the Parties each sign this Intergovernmental Agreement on a separate signature page. The signatories warrant that they have been duly authorized to bind the jurisdiction to the terms and conditions in this Agreement by formal approval of the jurisdiction's governing body.

Party:

\_\_\_\_\_

Authorized signatory:

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of formal approval by governing body:

\_\_\_\_\_

Attorney's Approval:

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

# Regional Training Coordinator

Department	FTE FF	PTE VOL FF	Total FF	Per Capita Assessment %	2014/2015 Annual Assessment
AZ National Guard	16		16	8%	\$ 6,276.45
Camp Navajo FD	14		14	7%	\$ 5,491.90
Flagstaff FD	76		76	40%	\$ 29,813.16
Highlands FD	23	10	33	17%	\$ 12,945.19
Ponderosa FD	4	10	14	7%	\$ 5,491.90
Summit	37		37	19%	\$ 14,514.30
<b>Total</b>			<b>190</b>		<b>\$ 74,532.90</b>

Regional Training Coordinator

Salary \$ 51,402.00

ERE 45% \$ 23,130.90

Total Personnel Cost \$ 74,532.90